

UNITED STATES DISTRICT COURT

NORTHERN

District of

UTAH

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

Evan James Wilko

BY:

DEPUTY CLERK

Case Number:

DUTX 1:08CR00046-001 TC

USM Number:

15429-081

Viviana Ramirez

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 2252A(a)(5)(B)	Possession of Child Pornography		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

01/06/2009

Date of Imposition of Judgment

Tena Campbell
Signature of Judge

Tena Campbell

Chief, United States District Court Judge

Name and Title of Judge

1-9-2009

Date

DEFENDANT: Evan James Wilko
CASE NUMBER: 1:08CR00046-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

27 Months

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court strongly recommends the defendant participate in sex offender treatment in a facility as near to the State of Utah as possible, to allow family visitations. The Court also recommends the defendant serve his sentence at the facility located in Seagoville, Texas.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 12:00 p.m. on 02/20/2009

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Evan James Wilko
CASE NUMBER: 1:08CR00046-001 TC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

10 Years

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☒ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Evan James Wilko
CASE NUMBER: 1:08CR00046-001 TC

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant is to inform any employer or prospective employer of his current conviction and supervision status.
2. The defendant shall participate in a sex-offender treatment program as directed by the probation office.
3. The defendant is restricted from visitation with individuals who are under 18 years of age without adult supervision as approved by the probation office.
4. The defendant shall abide by the following occupational restrictions: Any employment shall be approved by the USPO. In addition, if third-party risks are identified, the probation office is authorized to inform the defendant's employer of his supervision status.
5. The defendant shall not view or otherwise access pornography in any format.
6. The defendant shall submit his person, residence, office, or vehicle to a search, conducted by the United States Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
7. The defendant shall participate in the Computer Restriction and Monitoring Program under a copayment plan. The defendant shall comply with the provisions outlined in the *Limited Internet Access Agreement*.

DEFENDANT: Evan James Wilko
CASE NUMBER: 1:08CR00046-001 TC

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ _____ 0	\$ _____ 0	
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Evan James Wilko
CASE NUMBER: 1:08CR00046-001TC

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

DEFENDANT: Evan James Wilko
CASE NUMBER: 1:08CR00046-001TC

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A** ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 4 - 10

are the
Statement of Reasons,
which will be docketed
separately as a sealed
document

JOHN J. BORSOS, P.C.
JOHN J. BORSOS, (#384)
P.O. Box 112347
Salt Lake City, Utah 84147-2347
Telephone: (801) 533-8883
Fax: (801) 533-8887

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

WILLIAM ROBERTS,)	
)	
Plaintiff,	)	ORDER FOR EXTENSION OF
	)	TIME
vs.)	
)	
MICHAEL J. ASTRUE, in his)	
capacity as Commissioner of the Social	)	Case Number: 1:08-CV-00084 DN
Security Administration,)	
	)	Honorable DAVID NUFFER
Defendant.)	

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, Plaintiff, IT PHUNG, respectfully filed her motion for Extension of Time with this court on the 8th day of January, 2009.

Plaintiff's counsel has conferred with Defendant's counsel and they have agreed to the following dates.

Based upon the agreement of the motion filed with this court and for good cause shown,


IT IS HEREBY ORDERED that the filing dates for the parties' briefs be set as follows:

1. Plaintiff's Brief to be filed no later than January 12, 2009.

2. Defendant's Response to Brief may be filed February 13, 2009.
3. Plaintiff's Reply Brief to be filed no later than February 27, 2009.

DATED this 8th day of January, 2009.

BY THE COURT:


UNITED STATES DISTRICT JUDGE

MANNING CURTIS BRADSHAW
& BEDNAR LLC
Chad R. Derum, #9452
Third Floor Newhouse Building
10 Exchange Place
Salt Lake City, UT 84111
Telephone: (801) 363-5678
Facsimile: (801) 364-5678

FILED
U.S. DISTRICT COURT

2009 JAN -8 P 3:12

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Attorneys for Defendants Dollar General Corporation
and DG Retail LLC

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

DEBORAH JOHNSON,

Plaintiff,

- VS -

DOLLAR GENERAL CORPORATION and
DG RETAIL, LLC,

Defendants.

**ORDER FOR PRO HAC ADMISSION
OF FARIN KHOSRAVI**

Civil No. 1:08-cv-00123

Judge J. Thomas Greene

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of D.U. Civ. Rule 83-1.1(d), the motion for the admission of pro hac vice of Farin Khosravi in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this 8th day of January, 2009.

J. Thomas Greene
U.S. District Judge

FILED
U.S. DISTRICT COURT

2009 JAN -8 P 3:12

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

MANNING CURTIS BRADSHAW
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10 Exchange Place
Salt Lake City, UT 84111
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Facsimile: (801) 364-5678

Attorneys for Defendants Dollar General Corporation
and DG Retail LLC

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

DEBORAH JOHNSON,

Plaintiff,

- VS -

DOLLAR GENERAL CORPORATION and
DG RETAIL, LLC,

Defendants.

**ORDER FOR PRO HAC ADMISSION
OF JOEL S. ALLEN**

Civil No. 1:08-cv-00123

Judge J. Thomas Greene

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of D.U. Civ. Rule 83-1.1(d), the motion for the admission of pro hac vice of Joel S. Allen in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this 9th day of January, 2009.

J. Thomas Greene
U.S. District Judge

FILED
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

IVAN MENDEZ,

Plaintiff,

vs.

JANE DOE et al.,

Defendants.

2009 JAN -8 P 3:11

DISTRICT : UTAH

BY:

DEPUTY CLERK

**MEMORANDUM DECISION
AND ORDER**

Case No. 1:08-CV-131-JTG

District Judge J. Thomas Greene

Chief Magistrate Judge Samuel Alba

Plaintiff, Ivan Mendez, an inmate in Delaware, filed a civil rights complaint against defendants Jane Doe and Annette Wright. As discussed below, the Court concludes that Mendez must pay the filing fee before this case can proceed.

The *in forma pauperis* statute authorizes a court to let an indigent prisoner file a complaint in federal court without prepaying the filing fee.¹ But, it also restricts those who have repeatedly filed complaints that are frivolous or fail to state a valid claim. The relevant portion of the statute provides:

In no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.²

“These fee provisions are intended ‘to reduce frivolous prisoner litigation by making all prisoners seeking to bring lawsuits or appeals feel the deterrent effect created by liability for filing fees.’”³

¹The court construes these pro se filings liberally. See Haines v. Kerner, 404 U.S. 519, 520 (1972).

²28 U.S.C.S. § 1915(a) (2008).

³*Id.* § 1915 (g).

⁴Cosby v. Meadors, 351 F.3d 1324, 1327 (10th Cir. 2003) (quoting *In re Smith*, 114 F.3d 1247, 1249 (D.C.Cir. 1997)).

The Court knows that Mendez filed many complaints in the United States District Court for the District of Delaware that were dismissed as frivolous or failing to state a claim upon which relief may be granted.⁵ As the Tenth Circuit states, "A federal court may take notice of proceedings in other federal courts when those proceedings are relevant to matters at issue."⁶


Section 1915(g) applies here because Mendez was a prisoner when filing this complaint, and he has filed three or more prior cases in federal court that have been dismissed as frivolous. The language of section 1915(g) is mandatory. Thus, a federal prisoner who falls within the three-strikes provision must prepay the entire filing fee before his claims may proceed. Mendez has not alleged that he "is in imminent danger of serious physical injury"; therefore, he does not come within the exception to section 1915(g).

ORDER

Mendez is ineligible to proceed without prepaying the filing fee here because he has filed three or more cases in federal court which have been dismissed as frivolous, and the complaint does not fall within the three-strikes exception. Therefore, Mendez is **DENIED** permission to further proceed IFP. He is **ORDERED** to pay the entire \$350 statutory filing fee within thirty days from the date of this order. Failure to do so will result in the dismissal of the complaint.

DATED this 8th day of January 2009.

BY THE COURT:


J. THOMAS GREENE
United States District Judge

⁵See *Mendez v. This Criminal Organization*, No. 07-236-JJF (D. Del. May 25, 2007) (dismissing case under § 1915(g) & citing several cases dismissed in that district as frivolous or failing to state a claim).

⁶See *White v. Colorado*, 157 F.3d 1226, 1232 (10th Cir. 1998) (citing *St. Louis Baptist Temple, Inc. v. FDIC*, 605 F.2d 1169, 1172 (10th Cir. 1979)).

FILED
U.S. DISTRICT COURT

2009 JAN -9 A 10:18

RECEIVED

DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT

BY: DEPUTY CLERK

DISTRICT OF UTAH, NORTHERN DIVISION

OFFICE OF

JUDGE TENA CAMPBELL

UNITED STATES OF AMERICA,

Plaintiff,

v.

2007 CHEVROLET 2500 SILVERADO,
VIN: 1GCHK23D97F153653, et al.,

Defendants.

CASE: 1:08CV00145 TC

ORDER TO STAY CIVIL
FORFEITURE PROCEEDINGS
PURSUANT TO 18 U.S.C. § 981(g)


JUDGE: Tena Campbell

Pursuant to the Joint Motion to Stay and Memorandum submitted herewith filed by Plaintiff and Claimant's, the court finds that good cause appears for the stay requested by the Government and Claimant's pursuant to 18 U.S.C. § 981(g) in that it is probable that proceeding with civil discovery in this case will adversely affect the ability of the Government to prosecute the related criminal case.

It is HEREBY ORDERED that this civil forfeiture case number 1:08CV00145-TC, is stayed until February 28, 2009.

SO ORDERED this 9 day of January, 2009.

BY THE COURT:



TENA CAMPBELL, Judge
United States District Court

UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT
Utah

Central Division

District of

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE 3:13

(For Revocation of Probation or Supervised Release)

Damian Lopez-Flores (aka Mario Martinez-Sanchez)

BY:

Case Number: DUTX2:02CR000382-001

USM Number: 09621-081

Viviana Ramirez, FPD

Defendant's Attorney

THE DEFENDANT:

☐ admitted guilt to violation of condition(s) 2 of petition of the term of supervision.

☐ was found in violation of condition(s) after denial of guilt.

The defendant is adjudicated guilty of these violations:

Violation Number

Nature of Violation

Violation Ended

2

The defendant committed another federal, state, or local crime

to wit: possessed and distributed crack cocaine

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has not violated condition(s) and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant's Soc. Sec. No.: _____

1/6/2009

Date of Imposition of Judgment

Defendant's Date of Birth: _____

David Sam

Signature of Judge

Defendant's Residence Address: _____

David Sam

Name of Judge

U.S. District Judge

Title of Judge

Defendant's Mailing Address: _____

Date

January 8, 2008

DEFENDANT: Damian Lopez-Flores (aka Mario Martinez-Sanchez
CASE NUMBER: DUTX2:02CR000382-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

24 months (8 months to run consecutively and 16 months to run concurrently with sentence imposed in case # 2:08-cr-742, District of Utah).

☒ The court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in the state of California to facilitate family visitation. The court further recommends defendant participate in educational/vocational opportunities while incarcerated.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Damian Lopez-Flores (aka Mario Martinez-Sanchez

CASE NUMBER: DUTX2:02CR000382-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

none

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☐ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Damian Lopez-Flores (aka Mario Martinez-Sanchez

CASE NUMBER: DUTX2:02CR000382-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments set forth on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>

TOTALS	\$	<u>0.00</u>	\$	<u>0.00</u>
--------	----	-------------	----	-------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution or a fine more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Damian Lopez-Flores (aka Mario Martinez-Sanchez)
CASE NUMBER: DUTX2:02CR000382-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below); or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay.
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
The court re-instates \$100 SAF previously ordered on 12/09/2002.

Unless the court has expressly ordered otherwise in the special instruction above, if this judgment imposes imprisonment, payment of criminal monetary penalties is be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Joint and Several Amount and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

The Statement of Reasons
filed with the original J&C
has not been altered and so
will not be re-submitted with
this amended J&C

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

BC TECHNICAL, INC., Plaintiff, vs. ENSIL INTERNATIONAL CORP., Defendant.	MEMORANDUM DECISION AND ORDER DENYING DEFENDANT’S MOTION FOR JUDGMENT AS A MATTER OF LAW AND/OR NEW TRIAL AND DENYING PLAINTIFF’S MOTION TO ALTER OR AMEND JUDGMENT Case No. 2:02-CV-700 TS
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This matter is before the Court on Plaintiff’s Motion to Alter or Amend Judgment, filed September 25, 2008,¹ and Defendant’s Motion for Judgment as a Matter of Law and/or New Trial, filed September 29, 2008.² Plaintiff argues, in its Motion, that it is entitled to prejudgment interest, in the amount of \$101,126.58, on the jury award of \$159,100.00. Defendant argues, in its Motion, that it is entitled to judgment as a matter of law on Plaintiff’s conversion claim because Plaintiff failed to establish necessary elements of the claim. Defendant also argues that it is entitled to a new

¹Docket No. 297.

²Docket No. 299.

trial because it is impossible to determine what portion of the jury award is attributable to the conversion claim, and because the Court's jury instructions were unfairly prejudicial to Defendant. For the reasons set forth below, the Court will deny Plaintiff's Motion and Defendant's Motion.

I. STANDARDS OF REVIEW

A. JUDGMENT AS A MATTER OF LAW

Under Fed.R.Civ.P. 50, a court should render judgment as a matter of law when "a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue."³ The United States Supreme Court has left little doubt as to the role of a judge in deciding a motion for judgment as a matter of law. "In [entertaining a motion for judgment as a matter of law], the court must draw all reasonable inferences in favor of the nonmoving party, and it may not make credibility determinations or weigh the evidence."⁴ "Credibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of a judge."⁵

The Tenth Circuit has made it clear that judgment as a matter of law is to be "cautiously and sparingly granted,"⁶ and is only appropriate when there is no way to legally justify a jury verdict. Judgment as a matter of law is appropriate only "[i]f there is no legally sufficient evidentiary basis . . . with respect to a claim or defense . . . under the controlling law,"⁷ or if "the evidence points but

³Fed. R. Civ. P. 50(a)(1).

⁴*Lytle v. Household Mfg., Inc.*, 494 U.S. 545, 554-555 (1990).

⁵*Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986).

⁶*Weese v. Schukman*, 98 F.3d 542, 547 (10th Cir. 1996).

⁷*Baty v. Willamette Indus., Inc.*, 172 F.3d 1232, 1241 (10th Cir. 1999) (quoting Fed. R. Civ. P. 50).

one way and is susceptible to no reasonable inferences which may support the opposing party's position.”⁸ “Judgment as a matter of law is improper unless the evidence so overwhelmingly favors the moving party as to permit no other rational conclusion.”⁹

A party which has made a motion for judgment as a matter of law under Rule 50(a) prior to a jury verdict may renew that motion under Rule 50(b) after judgment is rendered. However, a Rule 50 motion “made at the close of evidence preserves for review only those grounds specified at the time, and no others.”¹⁰

B. NEW TRIAL

Rule 59(a) provides that a new trial may be granted “after a jury trial, for any reason for which a new trial has heretofore been granted in an action at law in federal court.”¹¹ The Tenth Circuit has stated that “[a] motion for new trial on the grounds that the jury verdict is against the weight of the evidence . . . involve[s] the discretion of the trial court The inquiry focuses on whether the verdict is clearly, decidedly or overwhelmingly against the weight of the evidence.”¹²

⁸*Finley v. United States*, 82 F.3d 966, 968 (10th Cir.1996).

⁹*Shaw v. AAA Eng’g & Drafting*, 213 F.3d 519, 529 (10th Cir. 2000).

¹⁰*Vandehurst v. Colo. Mountain Coll. Dist.*, 208 F.3d 908, 915 (10th Cir. 2000) (citing *Correa v. Hosp. San Francisco*, 69 F.3d 1184, 1196 (1st Cir. 1995)). See also *Michael Found., Inc. v. Urantia Found.*, 61 Fed. Appx. 538, 544 (10th Cir. 2003) (“We have consistently held that a movant’s renewed motion under Rule 50(b) may not advance new legal arguments; i.e., the renewed motion’s scope is restricted to issues developed in the initial motion.”).

¹¹Fed. R. Civ. P. 59(a).

¹²*Black v. Heib’s Enterprises, Inc.*, 805 F.2d 360, 363 (10th Cir. 1986).

A party may also obtain a new trial based on trial court errors that were “prejudicial and clearly erroneous, rather than harmless.”¹³ “Failure to properly instruct the jury requires a new trial ‘if the jury might have based its verdict on the erroneously given instruction.’”¹⁴ However, “[a]ppellate courts do not impute to a jury the inability to understand correctly the totality of the trial court’s instructions, even in complicated case, nor will courts impute nonfeasance, in the form of disregard of the trial court’s instructions, to a jury.”¹⁵ “Our concern is to ensure that our review does not leave us with substantial doubt whether the instructions, considered as a whole, properly guided the jury in its deliberations.”¹⁶

C. AMEND OR ALTER JUDGMENT

A Court may alter or amend its judgment, pursuant to Rule 59(e), when: (1) there has been an intervening change in the controlling law; (2) new evidence previously unavailable has become available; or (3) there is a need to correct clear error or prevent manifest injustice.¹⁷

II. PROCEDURAL HISTORY

This case was tried before a jury on July 14-18, 2008. The parties presented evidence and argument on Plaintiff’s two causes of action, breach of contract and conversion. Before the jury began its deliberations, Defendant moved for judgment as a matter of law under Federal Rule of

¹³*Rasmussen Drilling, Inc. v. Kerr-McGee Nuclear Corp.*, 571 F.2d 1144, 1148 (10th Cir. 1978).

¹⁴*Henning v. Union Pac. R. Co.*, 530 F.3d 1206, 1221 (10th Cir. 2008) (citing *Townsend v. Lumbermens Mut. Cas. Co.*, 294 F.3d 1232, 1242 (10th Cir. 2002)).

¹⁵*Rasmussen Drilling, Inc.*, 571 F.2d at 1149 (citing *United States v. Smaldone*, 485 F.2d 1333 (10th Cir. 1973) and *Ellis v. State of Okla.*, 430 F.2d 1352 (10th Cir. 1970)).

¹⁶*Hardeman v. City of Albuquerque*, 377 F.3d 1106, 1123 (10th Cir. 2004).

¹⁷*Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000).

Civil Procedure 50(a). First, Plaintiff argued that Plaintiff had not established that the boards were repairable, which Defendant claimed was the only way the boards would have any value. Defendant argued that the question of whether the boards were repairable required the presentation of expert testimony, and that Plaintiff had offered no expert testimony on the subject, entitling Defendant to judgment as a matter of law. Second, Defendant argued that the contract was illegal and therefore unenforceable. Third, Defendant argued that Plaintiff's conversion claim was barred by the economic loss rule. Fourth, Defendant argued that it was entitled to judgment as a matter of law on the issue of punitive damages.

The Court granted Defendant's Rule 50(a) motion with regard to punitive damages, but denied the motion with regard to Plaintiff's illegality, economic loss rule, and repairability arguments.¹⁸ Specifically, with regard to the issue of repairability and its impact on Plaintiff's conversion claim, the Court rejected Defendant's contention that the jury had not been presented with evidence to support damages. The Court noted that the jury had heard evidence that an employee of Defendant had inspected the boards and had provided a cost estimate for repair. The Court held that this was evidence of repairability. Moreover, the Court held that the establishment of damages is not essential to a claim of conversion.

After both parties had presented their cases, the Court presented the jury instructions. Included in the jury instructions were the following:

Instruction No. 34: In a trial, parties offer evidence which may relate to fact issues, legal issues, or both. The jury decides fact issues and the Court resolves legal issues. During the course of this trial, evidence has been presented concerning the legality of copying software/firmware on PROMS. This is a legal issue for the Court to decide. Accordingly, I now instruct you that, in reaching your verdict on Plaintiff's breach of contract claim, you are not to base your decision on a determination of

¹⁸Docket No. 275.

whether such conduct is legal or illegal. *You may, however, consider this evidence for all other purposes, including, for example, whether the parties agreed that Defendant would copy software/firmware on PROMS as part of any contract.*¹⁹

Instruction No. 41: If you find that Plaintiff has proven all of the elements of conversion by a preponderance of the evidence, you should consider the amount of damages, if any, Plaintiff should be awarded for conversion.

The measure of damages in a conversion action is the value of the property at the time of the conversion, *plus interest*. These damages also include the sum of money necessary to compensate Plaintiff for all actual losses it sustained as a natural and proximate cause of Defendant's wrongful conduct. The proximate cause of a damage is that cause which, in natural and continuous sequence, produces the damage, and without which the result would not have occurred.²⁰

The jury returned a verdict in favor of Plaintiff on both claims, and awarded a total of \$159,000.00 to Plaintiff. The verdict form, however, did not indicate the portion of the total award that was attributable to the breach of contract claim or to the conversion claim. The verdict form also did not indicate what portion of the total award was attributable to interest.

Defendant timely renewed its motion under Rule 50(b) after the jury reached its verdict, but only on the issue of illegality. The Court denied Defendant's renewed motion.²¹

III. DISCUSSION

A. JUDGMENT AS A MATTER OF LAW

Defendant's current Rule 50 motion argues for judgment as a matter of law on its conversion claim based on two grounds. First, that Plaintiff failed to establish the required elements of a conversion claim because "[t]he evidence at trial established that: (1) [Defendant] had a lawful justification for retaining the boards; (2) [Defendant] did not unqualifiedly refuse to return the boards; (3) to the contrary [Defendant] did offer to return the boards on reasonable terms; and (4)

¹⁹Docket No. 282 at 33 (emphasis added).

²⁰*Id.* at 40 (emphasis added).

²¹Docket No. 291.

at the time [Plaintiff] filed its lawsuit against [Defendant], [Plaintiff] was not entitled to immediate possession of the boards.”²² Second, that Plaintiff failed to prove damages because it failed to provide expert testimony regarding the repairability of the boards. If not repairable, Defendant argues, the boards are worthless and there can be no damages. Without expert testimony to establish repairability, Defendant argues, any award by the jury on the conversion claim is speculative and, therefore, unlawful.

1. *Necessary Elements of a Conversion Claim*

Plaintiff claims that Defendant’s first claim is procedurally barred, in that Defendant did not raise the specific issues in its initial Rule 50(a) motion. Defendant responds that its initial motion alleged that Plaintiff had failed to prove all the elements of a conversion claim. The Tenth Circuit has stated that “in satisfying the requirements of Rule 50, technical precision is unnecessary,”²³ and that rigid application of the rule is inappropriate.²⁴ Viewed in this light, Defendant’s first claim is likely not procedurally barred. However, the Court need not make a determination on this issue because Defendant has failed to meet the rigorous standards for judgment as a matter of law. Defendant makes various claims regarding what the evidence supposedly established at trial, but the jury was presented with the evidence, received jury instructions that detailed the elements of a conversion claim, and the jury issued a verdict in favor of Plaintiff. The jury performed its duties

²²Docket No. 300 at 1-2.

²³*Anderson v. United Tel. Co. of Kan.*, 933 F.2d 1500, 1503 (10th Cir. 1991).

²⁴*Id.*

in determining credibility, weighing the evidence, and drawing inferences, and it would be improper for the Court to ignore and reverse the conclusion arrived at by the jury.²⁵

Because the evidence does not overwhelmingly favor Defendant, so as to “permit no other rational conclusion, judgment as a matter of law is improper,”²⁶ and because there was ample evidence presented to the jury for the jury to find for Plaintiff on the issue of conversion, the Court will deny Defendant’s Motion on Defendant’s first claim.

2. *Damages*

Defendant did raise the issue of damages in his Rule 50(a) Motion, thus preserving the issue for review. Defendant has modified its arguments slightly from its original Rule 50(a) motion and no longer argues that damages are an essential element of Plaintiff’s conversion claim. Defendant continues to argue that Plaintiff has not proved that the boards were repairable, but now argues that the lack of expert testimony makes an actual award of damages impermissible speculation regarding the value of the boards at the time of conversion.

The Court, in its previous order, held that there was sufficient evidence for the jury to determine that there were damages suffered by Plaintiff. Specifically, Defendant’s own employee inspected the boards and offered an estimate for the cost of repairs, and Plaintiff provided an expert witness who testified that the type of repairs promised were possible. Defendant claims, however, that this evidence is circumstantial, that the repairability of the boards is the type of specialized knowledge that requires expert testimony, and that the jury is not allowed to base a damages award on circumstantial evidence.

²⁵*Anderson*, 477 U.S. at 255.

²⁶*Greene v. Safeway Stores, Inc.*, 98 F.3d 554, 557 (10th Cir.1996) (internal citation omitted).

Defendant cites to *Truck Ins. Exchange v. Magnetek, Inc.*²⁷ and *Harvey By and Through Harvey v. General Motors Corp.*²⁸ but these case provide little support for Defendant's arguments. In *Truck*, the Tenth Circuit rejected a jury finding as impermissible speculation when the issue of causation could only be proven by reliance on an expert theory that the court had already rejected or by directly contradicting uncontested evidence.²⁹ In *Harvey*, the Tenth Circuit rejected a jury finding as impermissible speculation when the expert medical witness testified that he could not ascertain the cause of the plaintiff's injuries with any degree of medical certainty.³⁰ Defendant mischaracterizes the holdings of these cases, for the fact to be established in *Truck* was capable of being proved by circumstantial evidence,³¹ and the jury in *Harvey* found liability after an expert essentially testified that it was impossible to know a necessary fact with medical certainty. Moreover, in both cases the courts were concerned that the jury findings were inconsistent with the evidence presented.

Defendant has cited no case wherein a question similar to that of repairability requires the presentation of expert evidence. In fact, on the issue of damages, the Tenth Circuit has stated that “[i]t is the general rule that an owner familiar with property which he occupies and operates in a business may testify concerning its value . . . even though he may not be an expert as to values

²⁷360 F.3d 1206 (10th Cir. 2004).

²⁸873 F.2d 1343 (10th Cir. 1989).

²⁹*Truck Ins. Exch.*, 360 F.3d at 1215-16.

³⁰*Harvey*, 873 F.2d at 1350.

³¹*Truck Ins. Exch.*, 360 F.3d at 1215.

generally of property of that kind.”³² Plaintiff presented evidence that Defendant’s own employee believed the boards to be repairable, along with expert testimony that the proposed repairs were possible. Plaintiff also presented testimony from the owner of the boards regarding their value, along with the expert testimony of an economist, who testified as to the lost profits to Plaintiff from the loss of the boards. Unlike in *Truck* or *Harvey*, the jury finding in this case is perfectly consistent with the evidence presented. Because there was ample evidence presented to the jury for the jury to find that the boards were repairable, Defendant is not entitled to judgment as a matter of law. The Court will therefore deny Defendant’s motion as to its second claim.

B. NEW TRIAL

Defendant moves for a new trial based on two independent grounds. Defendant argues that because it is entitled to judgment as a matter of law on the conversion claim, and because the jury verdict does not differentiate between the two claims, that a new trial is required to determine liability and damages. As described above, however, Defendant is not entitled to judgment as a matter of law on the conversion claim and a new trial on these grounds is unwarranted.

Defendant also claims that it is entitled to a new trial on its breach of contract claim because of prejudice and jury confusion. According to the Defendant, the Court effectively eliminated one of Defendant’s primary defenses, that it had never agreed to copy the PROMs because doing so would be illegal, through a combination of two decisions. First, the Court gave Jury Instruction No. 34, which instructed the jury that it was not to consider whether copying the PROMs was actually illegal, but that it could consider the evidence in determining whether or not Defendant agreed to

³²*Telluride Power Co. v. Williams*, 164 F.2d 685, 688 (10th Cir. 1947). *See also* Restatement (Second) of Torts § 927 cmt. c (the proper measure of property value in an action for conversion “includes market value and value to the owner.”).

copy the PROMs. Second, the Court refused Defendant's request to require the jury to declare a specific finding regarding whether Defendant agreed to copy the PROMs. According to Defendant, "[g]iving the illegality instruction while refusing to require the jury to answer whether [Defendant] agreed to copy software/firmware communicated to the jury that they should ignore the issue of copying PROMs."³³

Defendant's claims ignore not only the entirety of the jury instructions, but also the very language of Instruction No. 34. Instruction No. 34 states that the jury is free to consider the evidence specifically for the purpose of determining whether Defendant ever agreed to copy the PROMs. Moreover, Instruction No. 14 states that formation of a contract was necessary, Instruction No. 15 states that a contract is only formed when the parties "have assented to completely identical terms,"³⁴ and Instruction No. 17 states that contract terms may be express or implied. Defendant concedes that Plaintiff has always maintained that the copying of PROMs "was a material term of the contract,"³⁵ so the jury instructions, taken as a whole, clearly require the jury to consider whether or not Defendant ever agreed to copy PROMs.

The Court should not impute to the jury an inability to understand correctly the totality of the jury instructions, nor nonfeasance in willfully disregarding those instructions.³⁶ The jury instructions are an accurate description of the prevailing law at the time the jury received the instructions, and Defendant has not shown that there is "substantial doubt whether the instructions,

³³Docket No. 300 at 10.

³⁴Docket No. 282 at 16.

³⁵Docket No. 300 at ii.

³⁶*Rasmussen Drilling, Inc.*, 571 F.2d at 1149.

considered as a whole, properly guided the jury in its deliberations.”³⁷ Defendant is therefore not entitled to a new trial based on prejudice and jury confusion, and its Motion for New Trial will be denied.

C. PREJUDGMENT INTEREST

Plaintiff argues that they are entitled to prejudgment interest, and accurately represent that under Utah law “the measure of damages in a conversion action is the value of the property at the time of the conversion, plus interest.”³⁸ Prejudgment interest is awardable “where the damage is complete and the amount of loss is fixed as of a particular time, and that loss can be measured by facts and figures.”³⁹ Prejudgment interest is denied “when damages would be based on a mere description of the wrongs done.”⁴⁰ The statutory rate of prejudgment interest on conversion claims and, in the absence of a contractual term to the contrary, in breach of contract claims, is ten percent.⁴¹

Defendant argues that prejudgment interest is inappropriate because the amount of interest cannot be calculated with certainty. Specifically, Defendant argues that: (1) the jury had to use its best judgment as to valuation, which makes prejudgment interest inappropriate;⁴² (2) the date of breach and conversion were never the subject of findings of fact by the jury; and (3) the jury was

³⁷*Hardeman*, 377 F.3d at 1123.

³⁸*State v. Corbitt*, 82 P.3d 211, 213 (Utah Ct. App. 2003).

³⁹*Iron Head Const., Inc. v. Gurney*, 176 P.3d 453, 455 (Utah Ct. App. 2008) (quoting *Canyon Country Store v. Bracey*, 781 P.2d 414, 422 (Utah 1989)).

⁴⁰*Id.*

⁴¹*Nielsen v. O’Reilly*, 848 P.2d 664, 669-70 (Utah 1992). See also Utah Code Ann. § 15-1-1.

⁴²*Shoreline Dev., Inc. v. Utah County*, 835 P.2d 207, 211 (Utah Ct. App. 1992).

instructed that the measure of damages for conversion was the value of the property at the time of conversion *plus interest*, so that it must be assumed that part of the jury award already includes prejudgment interest.⁴³

Utah law precludes an award of prejudgment interest in so-called “best judgment” cases.⁴⁴ A best judgment case is one in which “the jury must determine the loss by using its best judgment as to valuation rather than fixed standards of valuation,”⁴⁵ with the key question being whether the loss can be “fixed at a particular time and the amount . . . fixed with accuracy.”⁴⁶

Plaintiff argues that Utah law does not follow the “best judgment” standard⁴⁷ and directs the Court to *Iron Head Const., Inc. v. Gurney*,⁴⁸ where the Utah Court of Appeals stated three standards that match the requirements of the best-judgment standard,⁴⁹ but also added that “prejudgment

⁴³Defendant also argued that Plaintiff’s original demand for prejudgment interest included compounding interest, which is not allowed under Utah law. In its Reply, Plaintiff has conceded this point and reduced their demand accordingly. Therefore, the issue is no longer before the Court.

⁴⁴*Shoreline Dev.*, 835 P.2d at 211.

⁴⁵*Id.*

⁴⁶*Id.* (quoting *Smith v. Linmar Energy Corp.*, 790 P.2d 1222, 1225 (Utah Ct. App. 1990)).

⁴⁷Docket No. 304 at 5.

⁴⁸176 P.3d 453 (Utah Ct. App. 2008).

⁴⁹*Iron Head Const.*, 176 P.3d at 455 (“prejudgment interest is awardable where the damage is complete and the amount is fixed as of a particular time, and that loss can be measured by facts and figures . . . [and] is properly awarded when the loss had been fixed as of a definite time and the amount of the loss can be calculated with mathematical accuracy in accordance with well-established rules of damages . . . [and] should be awarded when the damages (1) can be calculated with mathematical accuracy; and (2) are complete as of a particular date.”) (internal citations omitted).

interest is denied when damages would be based on a mere description of the wrongs done.”⁵⁰ Plaintiff appeals to this latter language in arguing that Utah courts no longer follow the strict “best judgment” standard. This argument must fail for two reasons. First, the standard advocated by Plaintiff establishes an extraordinarily low threshold for awarding prejudgment interest, in direct contradiction to the more stringent best judgment standard restated by the *Iron Head* Court no less than three times directly previous to and following Plaintiff’s preferred standard. Second, the language cited by the *Iron Head* Court comes from *Smith v. Fairfax Realty, Inc.*,⁵¹ wherein the Utah Supreme Court restated that an award of prejudgment interest requires that “the amount of the loss [be] fixed as of a particular time, and that the loss can be measured by facts and figures,”⁵² and that “where the damages are incomplete or cannot be calculated with mathematical accuracy, . . . the amount of damages must be ascertained and assessed by the trier of fact at the trial, and in such cases prejudgment interest is not allowed.”⁵³ The *Smith* Court also stated that prejudgment interest is to be denied “in cases where damage amounts are to be determined by the *broad discretion* of the jury.”⁵⁴

The language cited by the *Iron Head* Court, and relied upon by Plaintiff, is dicta, a passing reference to the state of the evidence in *Smith*, used to justify an award of prejudgment interest based on an appraisal of the fair market value of a piece of real property. The jury in *Smith* had a date

⁵⁰*Id.*

⁵¹82 P.3d 1064 (Utah 2003)).

⁵²*Id.* at 1069 n.5 (quoting *Cornia v. Wilcox*, 898 P.2d 1379, 1387 (Utah 1995)).

⁵³*Id.*

⁵⁴*Id.* at 1069.

specific on which an interest in real property was lost to a real estate investment trust, and had been presented with a fair market value appraisal of that lost interest in real property. Even though there was a dispute as to the value of the property, the jury had an appraisal value, arrived at through generally accepted mathematical formulas, upon which to base its decision. It is clear that the Utah Supreme Court did not wish to abandon the “best judgment” standard in questions of prejudgment interest with that single passing reference, especially in light of the fact that the *Smith* Court and the *Iron Head* Court both defined the standard in terms equivalent to the “best judgment” standard that prejudgment interest is only appropriate when damages can be fixed at a time certain, and the amount of loss determined with mathematical accuracy. The Court must therefore determine whether the jury was able to fix the loss as of a time certain and whether the jury could rely on calculations that would give mathematical accuracy to the valuation.

As an example of a case wherein best judgment was required, the Utah Supreme Court refused to allow prejudgment interest in *Cornia v. Wilcox*,⁵⁵ where the Utah Court stated that “[w]ithout any clear factual information, plaintiffs’ damages could not be measured by facts and figures or calculated with mathematical accuracy.”⁵⁶ In that case, the plaintiff’s expert testified as to the value of damages, and while that was sufficient to establish damages, the assumptions used by plaintiff’s expert in arriving at those valuations need not have been accepted by the jury in arriving at the damages award. Conflicting testimony regarding the essential facts necessary to

⁵⁵898 P.2d 1379 (Utah 1995).

⁵⁶*Id.* at 1387.

establishing damages meant that the jury was required to use their best judgment and that prejudgment interest was therefore inappropriate.⁵⁷

Defendant points to *Canyon Country Store v. Bracey*⁵⁸ as an example of a case wherein a determination of lost profits was held by the Utah Supreme Court to require the best judgment of the jury, making prejudgment interest inappropriate.⁵⁹ Defendant overstates the holding in the case, and claims that the Utah Court held that an award of lost profits, in general, makes prejudgment interest inappropriate. In fact, the Utah Court merely stated that prejudgment interest was inappropriate in *Bracey* because there was insufficient evidence in that case to provide certainty regarding the amount of lost profits.⁶⁰

In the present case, the Court finds that damages are highly speculative, not subject to mathematical accuracy, and that prejudgment interest is therefore inappropriate. The jury was presented with conflicting evidence on: (1) the date of conversion; (2) the date of breach; and (3) the value of the boards, including the existence and amount of lost profits. The jury could have come at the damage award from a number of avenues, and the damages award was therefore likely the result of the jury's best judgment, rather than the result of "fixed standards of valuation."⁶¹ Accordingly, Utah law precludes an award of prejudgment interest.

1. *Date of Conversion and Breach*

⁵⁷*Id.*

⁵⁸781 P.2d 414 (Utah 1989).

⁵⁹*Id.* at 422.

⁶⁰*Id.*

⁶¹*Shoreline Dev.*, 835 P.2d at 211.

Defendant also correctly points out that the jury did not make any determination regarding the specific date of conversion or breach of contract and argues that without a specific finding of the date of conversion or breach, damages cannot be ascertained “as of a particular time.”⁶² It is clear that the Court has the power to assign prejudgment interest,⁶³ but only if the test for prejudgment interest has been met, and Defendant essentially argues that there are no findings of fact from the jury that would allow the Court to determine the date at which prejudgment interest should begin to accrue.

Plaintiff argues that there was sufficient evidence before the jury to declare May 10, 2002 as the latest date at which conversion and breach of contract would have occurred. Moreover, Plaintiff also argues that Utah law does allow a Court to award prejudgment interest even when the jury has failed to issue specific findings of fact, citing to *Iron Head Const., Inc. v. Gurney*.⁶⁴ In *Gurney*, the Utah Court of Appeals upheld a trial court finding of date of breach, even though the jury had made no such finding, because the undisputed testimony established the date of a meeting, and that no further action in furtherance of the contract took place after that meeting. In the present case, however, there was conflicting testimony regarding the actions of the parties after Plaintiff demanded return of the boards. It is possible that the jury could have determined that Defendant’s post-demand actions were attempts to comply with the contract. If so, May 10, 2002 cannot be conclusively stated to be the date upon which the contract was breached or conversion occurred.

⁶²*Iron Head*, 176 P.3d at 455. See also *Saunders v. Sharp*, 793 P.2d 927, 931 (Utah Ct. App. 1990) (holding that the question of when a contract was breached is an issue for the fact-finder).

⁶³See *Jorgensen v. John Clay & Co.*, 660 P.2d 229, 230 (Utah 1983).

⁶⁴176 P.3d at 454.

Without a finding of fact from the jury, the disputes surrounding the date of breach make an award of prejudgment interest inappropriate.

2. *Value of Damages*

Similarly, an award of prejudgment interest is inappropriate because the evidence presented to the jury on the value of damages would not allow the jury to make a determination with mathematical accuracy. The jury heard testimony from the owner of the boards as to their fair market value as of May 10, 2002. However, the jury did not make a finding of fact that it believed the date of conversion to be May 10, 2002, so it is not clear that the jury accepted the testimony regarding the boards' fair market value. The jury also heard expert testimony regarding lost profits suffered by Plaintiff as a result of Defendant's breach of contract and conversion. However, Plaintiff's expert witness based his analysis on a 5-month window during which Plaintiff's business was thriving and used speculative assumptions to extrapolate lost profits over a much longer time span. Plaintiff thus engaged in speculation regarding lost profits similar to that which caused the Utah Court, in *Canyon Country*,⁶⁵ to disallow prejudgment interest. The speculative nature of the evidence before the jury requires that this Court deny Plaintiff's request for prejudgment interest, as well.

IV. CONCLUSION

It is therefore


ORDERED that Defendant's Motion for Judgment as a Matter of Law and/or New Trial (Docket No. 299) is DENIED. It is further

⁶⁵781 P.2d 414 (Utah 1989).

ORDERED that Plaintiff's Motion to Alter or Amend Judgment (Docket no. 297) is
DENIED.

DATED January 9, 2009.

BY THE COURT:



TED STEWART
United States District Judge

2008 JAN -9 P 1:43

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

DISTRICT OF UTAH

CENTRAL DIVISION

BY: _____
DEPUTY CLERK

AARON RAISER,

Plaintiff,

v.

**UTAH COUNTY; ELDON PACKER, in
his individual capacity; OWEN
SHIVENDECKER, in his individual
capacity; SPANISH FORK CITY; and
STATE OF UTAH,**

Defendants.

ORDER

Case No. 2:02-cv-1209-DB-PMW

District Judge Dee Benson

Magistrate Judge Paul M. Warner

Before the court is a report and recommendation issued by Magistrate Judge Paul M. Warner on October 30, 2008.¹ In that report and recommendation, Magistrate Judge Warner recommended disposition of the following pending motions: (1) Aaron Raiser's ("Plaintiff") motion for summary judgment against Spanish Fork City ("Spanish Fork");² (2) Spanish Fork's motion to continue Plaintiff's motion for summary judgment under rule 56(f) of the Federal Rules of Civil Procedure;³ (3) Spanish Fork's cross-motion for summary judgment;⁴ (4) Spanish

¹ See docket no. 179.

² See docket no. 108.

³ See docket no. 133.

⁴ See docket no. 137.

Fork's motion to dismiss;⁵ and (5) Plaintiff's motion for leave to amend his complaint only as it relates to Spanish Fork.⁶

After that report and recommendation was issued, Plaintiff and Spanish Fork jointly filed a stipulation of dismissal with prejudice of all of Plaintiff's claims against Spanish Fork.⁷ On December 2, 2008, this court entered an order approving that stipulation and dismissing with prejudice all of Plaintiff's claims against Spanish Fork.⁸

As indicated above, all of the pending motions addressed in Magistrate Judge Warner's October 30, 2008 report and recommendation either related to or were filed by Spanish Fork. When the court entered the December 2, 2008 order dismissing with prejudice all of Plaintiff's claims against Spanish Fork, all of those motions were rendered moot. Consequently, Magistrate Judge Warner's report and recommendation was likewise rendered moot.

Accordingly, **IT IS HEREBY ORDERED:**

1. All of the motions addressed in Magistrate Judge Warner's October 30, 2008 report and recommendation⁹ are **MOOT**.

⁵ See docket no. 160.

⁶ See docket no. 168.

⁷ See docket no. 181.

⁸ See docket no. 182.

⁹ See docket nos. 108, 133, 137, 160, 168.

2. Magistrate Judge Warner's October 30, 2008 report and recommendation¹⁰ is likewise **MOOT** and, as a result, shall be terminated in the court's filing system.

IT IS SO ORDERED.

DATED this 9th day of January, 2009.

BY THE COURT:

A handwritten signature in cursive script, reading "Dee Benson", written over a horizontal line.

DEE BENSON
United States District Judge

¹⁰ See docket no. 179.

FILED
U.S. DISTRICT COURT
2009 JAN -8 A 9:05
DISTRICT CLERK
BY: _____
DEPUTY CLERK

Vincent C. Rampton (USB #2684)
J. Angus Edwards (USB #4563)
JONES WALDO HOLBROOK & MCDONOUGH, PC
170 South Main Street, Suite 1500
Salt Lake City, Utah 84101
Telephone: (801) 521-3200
Fax: (801) 328-0537
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

JOHN F. MULLIN and DIANE L. MULLIN,
individuals,

Plaintiffs,

vs.

TRAVELERS INDEMNITY COMPANY OF
CONNECTICUT, a Delaware corporation,

Defendant.

**STIPULATED SCHEDULING
ORDER**

Civil No. 2:05CV00971 T

Judge Clark Waddoups

X CW

Pursuant to Fed. R. Civ. P. 16(b), the following matters are scheduled and the times and deadlines may not be modified without approval of the Court and upon a showing of good cause:

1. All fact and expert discovery shall be completed by March 31, 2009.
2. The deadline for filing dispositive motions shall be April 30, 2009.
3. A final pretrial conference should be scheduled during May 2009.

4. The parties expect that a jury trial will take two days.

Dated this 30 day of December, 2008

JONES WALDO HOLBROOK & McDONOUGH, P.C.

By: 

Vincent C. Rampton
J. Angus Edwards
Attorneys for Plaintiffs

Dated this 5 day of January, 2009

SUITTER AXLAND, PLLC

By: 

Michael W. Homer
Brian D. Bolinder
Attorneys for Defendant

BY THE COURT:

 1/7/09

Clark Waddoups
United States District Court Judge

UNITED STATES DISTRICT COURT

U.S. DISTRICT COURT

Central

District of

Utah

UNITED STATES OF AMERICA

2009 JAN -9 A 11: 05

JUDGMENT IN A CRIMINAL CASE

V.

DISTRICT CLERK

Danny Dutton

BY:

DEPUTY CLERK

Case Number:

DUTX 2:07CR00371-001 TC

USM Number:

14604-081

J. Edward Jones

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 922(g)(1)	Felon in Possession of a Firearm and Ammunition		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

01/07/2009

Date of Imposition of Judgment

Tena Campbell

Signature of Judge

Tena Campbell

Chief, United States District Court Judge

Name and Title of Judge

1-9-2009

Date

DEFENDANT: Danny Dutton
CASE NUMBER: 2:07CR00371-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

37 Months, with credit for time served

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends the defendant serve his sentence as near to the State of Utah to allow family visitations, preferably Arizona or California.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Danny Dutton
CASE NUMBER: 2:07CR00371-001 TC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Danny Dutton
CASE NUMBER: 2:07CR00371-001 TC

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall maintain full-time, verifiable employment or participate in academic or vocational development throughout the term of supervision as deemed appropriate by the USPO.
2. The defendant will submit to drug/alcohol testing as directed by the probation office, and pay a one-time \$115 fee to partially defray the costs of collection and testing.
3. If testing reveals illegal drug use, or the USPO determines that an assessment is necessary, the defendant shall participate in substance abuse evaluation and treatment as recommended under a co-payment plan, as directed by the USPO.

During the course of treatment, the defendant shall not consume alcohol nor frequent any establishment where alcohol is the primary item of order.

4. The defendant shall submit his person, residence, office or vehicle to a search, conducted by a USPO at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.

DEFENDANT: Danny Dutton
CASE NUMBER: 2:07CR00371-001 TC

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ _____ 0	\$ _____ 0
--------	------------	------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Danny Dutton
CASE NUMBER: 2:07CR00371-001 TC

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☒ The defendant shall forfeit the defendant's interest in the following property to the United States:

.357 Smith and Wesson Revolver and 6-hollow-point bullets

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 4 - 10

are the
Statement of Reasons,
which will be docketed
separately as a sealed
document

FILED
U.S. DISTRICT COURT

2008 JAN -9 P 1:43

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAELE MUREE MEIER, aka
MICHAELE MUREE CZAJKA,

Defendant.

Case No: 2:07cr 567 DB

ORDER FOR NEUROLOGICAL AND
PSYCHIATRIC EXAMINATION
AND REPORT (COMPETENCY)

Judge Dee Benson

Based on motion of the United States, and joined by defense counsel, Henri
Sisneros, and good cause appearing;

IT IS HEREBY ORDERED, that a pretrial mental examination as provided for in
18 U.S.C. § 4241(a) be conducted to determine the mental competence of Defendant.
Specifically, the Court orders that, pursuant to 18 U.S.C. § 4247(b), Defendant shall

remain on release in the District of Utah for this evaluation, and shall cooperate fully with the evaluator in this process making herself available during the time period required for this evaluation to be completed.

It is hereby ordered that the mental examination of Defendant be conducted for the purposes of determining: (1) her competency to properly assist in her own defense; (2) her competency to understand the nature and consequences of the proceeding against her.

The Court **ORDERS** that, pursuant to 18 U.S.C. § 4247, a mental examination report be filed with the Court. Copies of this report are to be provided to:

Henri Sisneros
Utah Federal Defender Office
46 West Broadway, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010
Facsimile: (801) 524-4060

Brett Parkinson
Assistant United States Attorney
185 South State Street
Salt Lake City, Utah 84111-1506
Telephone: (801) 524-5682
Fax: (801) 325-3387

The Court **ORDERS** that this evaluation is to be completed by :

Dr. Jeffry Watabe
University of Utah, Department of Psychiatry

At the conclusion of the evaluation, the parties would also request a discharge summary which includes a proposed treatment plan and a current list of any appropriate

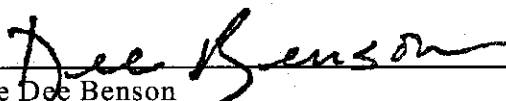
medication(s) with detailed dosage amounts. This document is also to be provided to the Court when the final evaluation report is submitted.

Moreover, this Court **ORDERS** that Speedy Trial time be tolled pursuant to 18 U.S.C. §§ 3161(h)(1)(a) and 3161(h)(8)(A) until a hearing can be held to determine the defendant's mental competency. The Court **FINDS** that failure to grant such a continuance under the Speedy Trial Act in this proceeding would make a continuation of such proceeding impossible because the defendant's mental competency is integral for the defendant to proceed to trial; entering a "guilty" plea; or having the criminal charge dismissed because of the defendant's mental incompetency. Finally, this Court **FINDS** that the granting of the continuance is based upon the fact that the ends of justice served by taking such action (granting the continuance) outweighs the best interest of the public and the defendant in a speedy trial.

Finally, the cost of this evaluation is to be borne by the United States Attorney's office, or the Department of Justice.

DATED this 7 day of January, 2009.

BY THE COURT:



Judge Dee Benson
United States District Judge

FILED
U.S. DISTRICT COURT
2008 JAN -9 P 1:43
DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

MICHAELE MUREE MEIER, aka
MICHAELE MUREE CZAJKA,
Defendant.

BY: DEPUTY CLERK
ORDER TO CONTINUE TRIAL

Case No. 2:07 CR 567 DB

Honorable Dee Benson

Based upon the motion of the defendant, Michael Muree Meier, and good cause appearing;

IT IS HEREBY ORDERED that the 10-day jury trial in the above-entitled matter, currently scheduled for January 12, 2009, is continued until the 23 day of MARCH, 2009, at 8:30 a.m.

IT IS FURTHER ORDERED, based on the motion to continue filed in this matter, that the time between January 12, 2009, and the trial date listed above is excluded from calculation under the Speedy Trial Act, 18 U.S.C. § 3161 (h)(8)(A), in order to grant additional time to pursue a competency evaluation of defendant. The Court finds that such a continuance is required for effective preparation for trial, taking into account the exercise of due diligence. The Court further finds that this additional time outweighs the best interest of the public and the Defendant in a speedy trial.

SIGNED BY MY HAND this 9 day of January, 2009.

BY THE COURT:

A handwritten signature in cursive script, reading "Dee Benson", written in black ink.

HONORABLE DEE BENSON
United States District Court Judge

Report and Order Terminating Supervised Release
Prior to Original Expiration Date

UNITED STATES DISTRICT COURT

for the

DISTRICT OF UTAH

UNITED STATES OF AMERICA

v. Criminal No. 2:07-CR-00842-001-JTG

ERICK TAMARIZ


On February 6, 2007, the above named was placed on Supervised Release for a period of three years. The defendant has complied with the rules and regulations of Supervised Release and is no longer in need of supervision. It is accordingly recommended that the defendant be discharged from supervision.

Respectfully submitted,


Dusten Russell
United States Probation Officer

Pursuant to the above report, it is ordered that the defendant be discharged from supervision and that the proceedings in the case be terminated.

Dated this 8th day of January, 2009.


J. Thomas Greene
Senior United States District Judge

2009 JAN -8 P 3:11

DISTRICT OF UTAH

BY: DEPUTY CLERK

on April 2, 2009

876
1/8/09

**United States Probation Office
for the District of Utah**

Request for Early Termination of Supervision

Name of Offender: **Erick Tamariz**

Docket Number: **2:07-CR-00842-001-JTG**

Name of Sentencing Judicial Officer: **Honorable J. Thomas Greene**
Senior United States District Judge

Date of Original Sentence: **February 6, 2006**

Original Offense: **Bringing in Illegal Aliens Without Presentation and Aiding and Abetting**
[8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2]

Original Sentence: **15 Months BOP Custody/36 Months Supervised Release**

Type of Supervision: **Supervised Release**

Supervision Began: **April 2, 2007**

SUPERVISION SUMMARY

At this time, the probation office is requesting early termination of supervision. The defendant's scheduled expiration date is April 1, 2010. The defendant has paid all financial obligations to the Court in full, maintained monthly contact, and performed well on supervision. The defendant was originally sentenced in the Southern District of California, and the District of Utah now has jurisdiction. Again, the defendant has performed well on supervision with no issues of noncompliance. The defendant has maintained full-time employment, reported to the probation office regularly, and has not had any violation concerns. Assistant United States Attorney Brett R. Parkinson does not object to an early termination of supervision. If the Court concurs, a Form 35 is attached for Your Honor's signature.

If the Court desires more information or another course of action, please contact me at (801) 625-5680, ext. 21.

I declare under penalty of perjury that the foregoing is true and correct.



Dusten Russell
United States Probation Officer
December 22, 2008

Attachment

FILED
U.S. DISTRICT COURT

2009 JAN -8 P 3:12

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

JEREMY M. DELICINO - 9959
Attorney for Defendant
10 West Broadway, Suite 650
Salt Lake City, Utah 84101
Telephone: (801) 364-6474
Facsimile: (801) 364-5014

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

PATRICK AUSTIN,

Defendant.

:

:

ORDER

:

:

Case No. 2:07-CR-903 DS

:

The Court having read the foregoing motion and good cause appearing, it is hereby;

ORDERED that the sentencing in the above matter is continued to this 26th day of

Feb., 2009, at 2:00 p.m.

DATED this 8th day of January, 2009.

BY THE COURT:



Honorable DAVID SAM
U.S. District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of January, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Carol A. Dain
carol.dain@usdoj.gov, laurie.coles@usdoj.gov

Jamie Zenger
jamie_zenger@fd.org, phyllis_walker@fd.org

Brittany Bagely

/s/ _____

JEREMY M. DELICINO - 9959
Attorney at Law
10 West Broadway, Suite 650
Salt Lake City, Utah 84101
Telephone: (801) 364-6474
Facsimile: (801) 364-5014

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

PATRICK AUSTIN,

Defendant.

:

:

:

:

:

**MOTION TO CONTINUE
SENTENCING**

Case No. 2:07-CR-903 DS

The defendant, through his attorney of record, Jeremy M. Delicino, hereby moves this court to continue the sentencing currently scheduled for January 9, 2009. As noted in his previous motion to continue, the defendant is currently enrolled in intensive outpatient drug treatment with the Indian Walk-in Center in Salt Lake City. Counsel has been informed that the defendant has successfully completed the first phase of treatment, and he is currently undergoing the second phase of treatment in his program. Counsel believes that continued treatment is in the best interests of the defendant, and likewise submits that the eventual completion of his treatment program will be highly relevant to sentencing. As such, the defendant believes that a continuance of the sentencing is clearly warranted.

Counsel has spoken to Assistant United States Attorney Carol Dain, who has no objection to this request.

DATED this 6th day of January, 2009.

Jeremy M. Delicino

/s/

JEREMY M. DELICINO

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Carol A. Dain

carol.dain@usdoj.gov, laurie.coles@usdoj.gov

Jamie Zenger

jamie_zenger@fd.org, phyllis_walker@fd.org

Brittany Bagely

/s/

RECEIVED S. DISTRICT COURT

JAN 08 2008 2009 JAN -8 P 2:52

OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

ORDER TO DISMISS
WITHOUT PREJUDICE

Y.

Civil No. 2:07cv00416BSJ

Defendants.

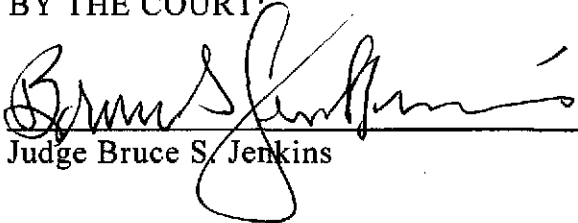
Judge Bruce S. Jenkins

ORDERS that this action is dismissed in its entirety, without prejudice, each party to bear its own attorneys' fees and costs.

2:07-cv-416 J

DATED this 8th day of January, 2009.

BY THE COURT:



Judge Bruce S. Jenkins

4421020_1.DOC

FILED
U.S. DISTRICT COURT
2009 JAN -8 P 3:12
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

STEVEN W. CALL (5260)
ELAINE A. MONSON (5523)
RAY QUINNEY & NEBEKER P.C.
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, UT 84145-0385
Telephone: (801) 532-1500
Facsimile: (801) 532-7543
Attorneys for State Bank of Southern Utah

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JEFFREY A. HEIL, an individual, and
PAULA M. HEIL, an individual,

Plaintiffs,

vs.

STATE BANK OF SOUTHERN UTAH,
a Utah banking institution, and
IRON COUNTY, a political subdivision of
the State of Utah,

Defendants.

**ORDER GRANTING STIPULATION
FOR EXTENSION OF TIME FOR
STATE BANK TO FILE REPLY BRIEF
IN SUPPORT OF MOTION TO
DISMISS, OR ALTERNATIVELY, FOR
SUMMARY JUDGMENT**


Case No. 2:07cv-598

Hon. David Sam

BASED UPON the stipulation of the parties, and good cause appearing,

IT IS HEREBY ORDERED that Defendant State Bank of Southern Utah may have to
and including January 22, 2009 to file its reply brief in support of its Motion to Dismiss
Plaintiff's Amended Complaint Under Rule 12(b)(6) and Alternatively, for Summary Judgment
under Rule 56 and Related Relief.

DATED this 8th day of January, 2009.



Honorable David Sam
District Judge

1015734

Daniel L. Steele (6336)
Arthur VanWagenen (11429)
STUCKI STEELE PIA ANDERSON, LLC
299 South Main Street
Suite 2200
Salt Lake City, Utah 84111
Telephone: (801) 961-1300
Email: dan@sspafirm.com

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

* * * * *

DOUGLAS S., ANN C.S., and LAURA S.,)	
	)	ORDER EXTENDING DEADLINE FOR
Plaintiffs,	)	FILING OPPOSING MEMORANDA TO
	)	MOTIONS FOR SUMMARY
vs.	)	JUDGMENT
)	
ALTIUS HEALTH PLANS, INC.,	)	Case No. 2:07-cv-734-DAK
)	
Defendant.	)	Judge Dale A. Kimball
)	
)	

* * * * *

Plaintiffs Douglas S., Ann C.S., and Laura S. and Defendant Altius Health Plans, Inc.,
filed a Joint Motion and Stipulation to Extend Deadline for Filing Opposing Memoranda to
Motions for Summary Judgment. Pursuant to that Motion,

IT IS HEREBY ORDERED that the parties shall have to, and including, January 30, 2009 to opposing memoranda to the parties' respective Motions for Summary Judgment.

DATED: January 9, 2009.



Judge Dale A. Kimball

WILLIAM F. HANSON (3620)
Assistant Utah Attorney General
MARK L. SHURTLEFF (4666)
Utah Attorney General
160 East 300 South, Sixth Floor
PO BOX 140856
Salt Lake City, Utah 84114-0856
Telephone: (801) 366-0100
Attorneys for Defendant Brent Dunlop

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

WALTER RAY REDMOND,

Plaintiff,

vs.

UTAH WORKFORCE COMMISSION, et
al.,

Defendants.

**ORDER EXTENDING TIME TO
RESPOND TO PLAINTIFF'S
COMPLAINT**

Case No. 2:07cv928

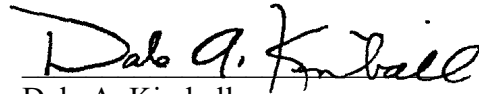
Judge Dale A. Kimball

Magistrate Judge David Nuffer

Defendant Utah Workforce Services filed *Defendant's Motion for Extension of Time To Respond to Plaintiff's Complaint*. Based on his motion and the grounds and reasons set forth therein,

IT IS HEREBY ORDERED that Defendant's motion is granted. It has to and including ten days after the date it received the summons and a copy of the complaint, to respond to Plaintiff's *Complaint* (docket no. 3).

Dated this 9th day of January, 2009.

A handwritten signature in black ink, reading "Dale A. Kimball". The signature is written in a cursive style with a horizontal line underneath the name.

Dale A. Kimball

United States District Court Judge

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

JAN -7 P 2:46

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

MIGUEL AVALOS-VASQUEZ,
Plaintiff,

ORDER

vs.

UNITED STATES OF AMERICA,
Defendant.

Case No. 2:07 CV 948 TC

On December 6, 2007, Petitioner Miguel Avalos-Vasquez filed a Motion to Vacate, Set Aside, or Correct Sentence By a Person in Federal Custody, pursuant to 28 U.S.C. § 2255. On March 31, 2008, the court denied his motion. (See Mar. 31, 2008 Order (Dkt # 8).) The case was subsequently closed. (See Mar. 31, 2008 Minute Entry (Dkt # 8).)

Mr. Avalos-Vasquez then filed a Motion for Summary Judgment on October 10, 2008. But because Mr. Avalos-Vasquez's Petition was resolved and the case closed before Mr. Avalos-Vasquez filed his motion, the court no longer had jurisdiction over the matter and his Motion for Summary Judgment was denied (Dkt # 9).

Mr. Avalos-Vasquez has now filed a Rule 60(b)(1)-(6) [sic] Motion for Relief From Judgment or Order and a Notice of Appeal appealing the denial of his § 2255 petition to the Tenth Circuit Court of Appeals. Because Mr. Avalos-Vasquez's case is closed, the court lacks jurisdiction and his Motion for Relief From Judgment or Order is denied.

DATED this 7 day of January, 2009.

BY THE COURT:

A handwritten signature in black ink, reading "Tena Campbell". The signature is written in a cursive, flowing style with a large initial "T".

TENA CAMPBELL
Chief Judge

STEPHEN R. MCCAUGHEY - 2149
Attorney for Defendant
10 West Broadway, Suite 650
Salt Lake City, Utah 84101
Telephone: (801) 364-6474
Facsimile: (801) 364-5014

FILED
U.S. DISTRICT COURT
2008 JAN -9 P 1:43
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

SHAUN GREGORY MORGAN,

Defendant.

FINDINGS AND ORDER

Case No. 2:08-CR-164 DB

Based on motion of the defendant and stipulation of the plaintiff, the court enters the following;

FINDINGS

1. If defendant's motion to continue were denied it would deny the defendant continuity of counsel.
2. Counsel needs additional time to effectively prepare for trial and consult with the defendant.
3. Counsel has exercised due diligence in preparing this case.
4. The ends of justice in granting a continuance outweigh the best interests of the public and the defendant in a speedy trial.

ORDER

It is hereby ORDERED that the trial date of January 20, 2009, be stricken and the trial continued.

It is further, ORDERED that the time between January 20, 2009, and this 13 day of July, 2009 be excluded from the computation for the time for trial as described in 18 U.S.C. §3161.

DATED this 7 day of January, 2009.

BY THE COURT:


Honorable DEE BENSON
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of January, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Cy H. Castle

cy.castle@usdoj.gov, brooke.winters@usdoj.gov, emily.adams@usdoj.gov

Richard W. Daynes

Richard.Daynes@usdoj.gov, valerie.maxwell@usdoj.gov, heather.nielson@usdoj.gov

Brittany Bagley

s/ _____

FILED
U.S. DISTRICT COURT

2008 JAN -9 P 1:43

DISTRICT OF UTAH

BY: DEPUTY CLERK

JEREMY M. DELICINO - 9959
Attorney for Defendant
10 West Broadway, Suite 650
Salt Lake City, Utah 84101
Telephone: (801) 364-6474
Facsimile: (801) 364-5014

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

SHAUN GREGORY MORGAN,

Defendant.

:

:

:

:

:

ORDER
EXTENDING DEADLINES

Case No. 2:08-CR-164 DB

Based on motion of the defendant and good cause shown, It is hereby:

ORDERED that the motion cut-off for the above-entitled case is extended to this 15 day
of June, 2009.

DATED this 9 day of JANUARY 2008.

BY THE COURT:

Dee Benson
Honorable DEE BENSON
U.S. District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of December, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Cy H. Castle

cy.castle@usdoj.gov, brooke.winters@usdoj.gov, emily.adams@usdoj.gov

Richard W. Daynes

Richard.Daynes@usdoj.gov, valerie.maxwell@usdoj.gov, heather.nielson@usdoj.gov

Brittany Bagley

s/ _____

UNITED STATES DISTRICT COURT
U.S. DISTRICT COURT

Central Division

District of

Utah

UNITED STATES OF AMERICA 2009 JAN -8 P 3:13 JUDGMENT IN A CRIMINAL CASE

V.

Russell Michael Ontiveros

DISTRICT OF UTAH

BY:

DEPUTY CLERK

Case Number: DUTX2:08CR000185-001

USM Number: 15383-081

Parker Douglas, FPD

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 USC Sec. 841(a)(1)	Possession of Methamphetamine With Intent to Distribute		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

1/6/2009

Date of Imposition of Judgment

David Sam

Signature of Judge

David Sam

Name of Judge

U.S. District Judge

Title of Judge

Date

1/8/09

DEFENDANT: Russell Michael Ontiveros
CASE NUMBER: DUTX2:08CR000185-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

120 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in Sheridan, Oregon, Terminal Island, California or Safford, Arizona to facilitate family visitation. The court further recommends defendant participate in educational/vocational opportunities while incarcerated. The court recommends defendant receive treatment for current medical conditions.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Russell Michael Ontiveros
CASE NUMBER: DUTX2:08CR000185-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

60 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Russell Michael Ontiveros
CASE NUMBER: DUTX2:08CR000185-001

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant will submit to drug/alcohol testing as directed by the probation office, and pay a one-time \$115 fee to partially defray the costs of collection and testing.
2. The defendant shall participate in a substance-abuse evaluation and/or treatment under a co-payment plan as directed by the probation office. During the course of treatment, the defendant shall not consume alcohol nor frequent any establishment where alcohol is the primary item of order.
3. The defendant shall submit his person, residence, office, or vehicle to a search, conducted by the probation office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
4. The defendant shall remove any surveillance cameras and/or video equipment throughout the term of supervision at the direction of the probation office.

DEFENDANT: Russell Michael Ontiveros
CASE NUMBER: DUTX2:08CR000185-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$	<u>0.00</u>	\$	<u>0.00</u>
--------	----	-------------	----	-------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Russell Michael Ontiveros
CASE NUMBER: DUTX2:08CR000185-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
Special Assessment Fee of \$100 is due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

Statement of Reasons (Sealed-Not for Public Disclosure)

Case Name: USA v. Russell Michael Ontiveros

Case Number: 2:08-cr-185-001

Defendant: Russell Michael Ontiveros

The attached Statement of Reasons is a sealed addendum to the Judgement and Commitment Order issued on .

Pages 7 - 10

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

BRETT L. TOLMAN, United States Attorney (#8821)
CAROL A. DAIN, Assistant United States Attorney (#10065)
Attorneys for the United States of America
185 South State Street, Suite 300
Salt Lake City, Utah 84111
Telephone: (801) 524-5682
E-mail:

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	2:08 CR 00513 TS
Plaintiff,	:	
vs.	:	ORDER
DENNIS C. WING,	:	Judge Ted Stewart
Defendant.	:	


On January 8, 2009, a status conference was held in the above-captioned case. The defendant was present with counsel and the government was represented. The Court, having granted the defendant's Motion to Withdraw Plea of Guilty, set this case for a status conference on January 27, 2009 at 9:30 a.m. before Judge Ted Stewart.

Pursuant to the Speedy Trial Act, 18 U.S.C. § 3161 et seq., the Court acknowledges defendant's knowing and voluntary waiver, through counsel, of his rights under the Speedy Trial Act, and finds that the ends of justice served by a continuance in this case outweigh the best interest of the public and the defendant in a speedy trial in order to afford counsel for the defendants and the Government additional time to engage in plea negotiations. Accordingly, the time between the date of Defendant's withdrawal

of his guilty plea and January 27, 2009, is excluded from speedy trial computation.

DATED this 9th day of January, 2009.

BY THE COURT:



TED STEWART
U.S. District Court Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

RONALD ALAN WOODIN,

Defendant.

**ORDER EXTENDING MOTION
CUT-OFF DATE**

Case No. 2:08 CR 00674 DAK

Based on the motion filed by the defendant and good cause appearing,

IT IS HEREBY ORDERED the motion cut-off date be extended to the 30th day of
January, 2009.

DATED this 9th day of January, 2009.

BY THE COURT:



Dale A. Kimball
United States District Court Judge

UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT

Central

District of

Utah

UNITED STATES OF AMERICA

V.

Jose Guadalupe Sanchez-Garcia

JUDGMENT IN A CRIMINAL CASE

Case Number: DUTX 2:08-cr-000680-001

USM Number: 15652-081

Brenda S. Whiteley

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) I-Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8 USC § 1326	Re-Entry of a Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

1/6/2009

Date of Imposition of Judgment

Dee Benson

Signature of Judge

Dee Benson

Name of Judge

U.S. District Judge

Title of Judge

1/7/2009

Date

DEFENDANT: Jose Guadalupe Sanchez-Garcia
CASE NUMBER: DUTX 2:08-cr-000680-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

30 months.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Jose Guadalupe Sanchez-Garcia
CASE NUMBER: DUTX 2:08-cr-000680-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of:

36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Jose Guadalupe Sanchez-Garcia
CASE NUMBER: DUTX 2:08-cr-000680-001

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not reenter the United States illegally. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of his arrival in the United States.

CRIMINAL MONETARY PENALTIES

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Jose Guadalupe Sanchez-Garcia
CASE NUMBER: DUTX 2:08-cr-000680-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages ____ - ____

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT

Central Division

District of

Utah

UNITED STATES OF AMERICA

V.

Johnny Acosta-Valle

JUDGMENT IN A CRIMINAL CASE

2009 JAN -8 A 9:05

DIST. OF UTAH

Case Number: DUTX2:08CR000738-001

USM Number: 15861-081

Viviana Ramirez, FPD

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8 USC Ssec. 1326	Re-entry of a Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

1/5/2009

Date of Imposition of Judgment

Signature of Judge

Clark Waddoups

Name of Judge

U.S. District Judge

Title of Judge

Date

1/7/09

DEFENDANT: Johnny Acosta-Valle
CASE NUMBER: DUTX2:08CR000738-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

24 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in Southern Arizona to facilitate family visitation.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Johnny Acosta-Valle
CASE NUMBER: DUTX2:08CR000738-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Johnny Acosta-Valle

CASE NUMBER: DUTX2:08CR000738-001

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not illegally reenter the United States. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the USPO in the District of Utah within 72 hours of arrival in the United States.

DEFENDANT: Johnny Acosta-Valle
CASE NUMBER: DUTX2:08CR000738-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$	<u>0.00</u>	\$	<u>0.00</u>
--------	----	-------------	----	-------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Johnny Acosta-Valle
CASE NUMBER: DUTX2:08CR000738-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
Special Assessment Fee of \$100 is due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

FILED
U.S. DISTRICT COURT

2009 JAN -8 P 2:00

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

MARY C. CORPORON #734
Attorney for Defendant
CORPORON & WILLIAMS, P.C.
405 South Main Street, Suite #700
Salt Lake City, Utah 84111
Telephone: (801) 328-1162
Facsimile: (801) 328-9565

IN THE UNITED STATES DISTRICT COURT,
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-VS-

JACOY KITER,

Defendant.

:
: **ORDER EXTENDING TIME IN WHICH**
: **TO FILE PRE-TRIAL MOTIONS**
:
:

: Case No.2:08 CR 00782
:

: Judge Ted Stewart
: Magistrate Judge Samuel Alba

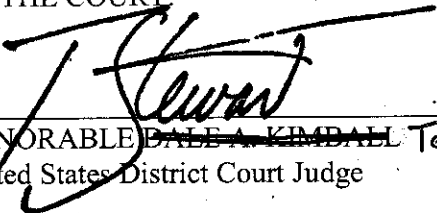
Based upon the motion of the Defendant, and for good cause appearing, therefore:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

That the Defendant, Jacoy Kiter, is granted an extension of time in which to file pre-trial motions, until February 9, 2009.

DATED this 8th day of January, 2009.

BY THE COURT:


HONORABLE ~~DALE A. KIMBALL~~ Ted Stewart
United States District Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused the foregoing to be provided to:

BRETT L. TOLMAN
MICHAEL KENNEDY
Assistant United States Attorney
Office of the U.S. Attorney
185 South State, #400
Salt Lake City, Utah 84111

on the 7th day of *January*, 2008.

/s/ Jennifer Witherspoon

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

JAN 08 2009
BY D. MARK JONES, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELISE ANN PETERSON,

Defendant.

ORDER MODIFYING CONDITIONS
OF RELEASE

Case No. 2:08CR-842CW

Magistrate Judge Paul M. Warner

Based upon motion of the Defendant, stipulation of the prosecution, and good cause appearing,

IT IS HEREBY ORDERED that the Defendant is allowed leave from Cornell Halfway House during the day on Saturdays, beginning January 10, 2009. She is to be released at 10:00

a.m. and is to return by 6:00 p.m. All other conditions of release are to remain in effect.

She will also comply with all other conditions of release; specifically the conditions specifically

DATED this 9th day of January, 2009.

*enumerated in para # 3
(handwritten by Judge Warner)
of the motion.*

BY THE COURT:



Paul M. Warner

United States Magistrate Judge

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

CONNOR SPORT COURT
INTERNATIONAL, INC., a
Delaware Corporation,

Plaintiff,

vs.

UPMAN ENTERPRISES, a Florida
Corporation,

Defendant.

ORDER DISMISSING CASE

Case No. 2:08-CV-12-SA

Magistrate Judge Samuel Alba

Plaintiff has filed a Notice of Dismissal, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, because the parties have entered into a Settlement Agreement in this case. Having been apprised of the facts and for good cause shown, and in accordance with Local Rule DUCivR 54-1(d) and Plaintiff's Notice of Dismissal,

IT IS HEREBY ORDERED that this action is dismissed with prejudice with each party to bear its own costs.

DATED this 9th day of January, 2009.

BY THE COURT:



Samuel Alba
United States Magistrate Judge

Ryan L. Marshall (9529)
BRINKS HOFER GILSON & LIONE
405 South Main, Suite 800
Salt Lake City, Utah 84111-3400
Telephone: (801) 355-7900
Facsimile: (801) 355-7901

Timothy Q. Delaney (*pro hac vice*)
Kelly J. Eberspecher (*pro hac vice*)
BRINKS HOFER GILSON & LIONE
NBC Tower – Suite 3600
455 N. Cityfront Plaza Drive
Chicago, Illinois 60611-5599
Telephone: (312) 321-4200
Facsimile: (312) 321-4299

Attorneys for Defendant/Consolidated-Plaintiff, Amway Corp.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

MONAVIE, LLC, a Utah limited liability
company,
Plaintiff,

v.

AMWAY CORP., a Virginia corporation,
Defendant.

AMWAY CORP.,
Consolidated-Plaintiff,

v.

MONA VIE, INC.,
MONAVIE LLC,
John Brigham and Lita HART,
Jason LYONS, Carrie PALMIERI,
Lou NILES,
Farid ZARIF,
Consolidated-Defendants.

FILED
U.S. DISTRICT COURT
Gainer M. Waldbillig (4433)
DYER WALDBILLIG PLLC
221 Kearns Building
136 South Main Street
Salt Lake City, Utah 84101
Telephone: (801) 363-5000
DEPUTY CLERK

**~~PROPOSED~~ ORDER RE:
DECEMBER 19, 2008, HEARING**

**Case No. 2:08-CV-00204
Judge Bruce S. Jenkins**

[Consolidated with Case No.: 2:08-cv-209 DB]

THIS MATTER came before the Court on December 19, 2008, pursuant to the following motions:

- (1) Defendant/Consolidated-Plaintiff Quixtar's Motion To Compel Discovery From Consolidated-Defendants Mona Vie, Inc. and MonaVie LLC (Docket No. 95), filed September 3, 2008;
- (2) Defendant/Consolidated-Plaintiff Quixtar's Motion To Compel Discovery From Consolidated-Defendants Brig and Lita Hart, Jason Lyons, and Carrie Palmieri (Docket No. 97), filed September 3, 2008;
- (3) Defendant/Consolidated-Plaintiff Quixtar's Motion To Compel Discovery From Consolidated-Defendants Lou Niles and Farid Zarif (Docket No. 100), filed September 3, 2008;
- (4) Defendant/Consolidated-Plaintiff Quixtar's [Supplemental] Motion To Compel Discovery From Consolidated-Defendants Brig and Lita Hart (Docket No. 112), filed September 24, 2008;
- (5) Defendant/Consolidated-Plaintiff Quixtar's [Supplemental] Motion To Compel Discovery From Consolidated-Defendants MonaVie, Inc. and MonaVie LLC (Docket No. 114), filed September 24, 2008;
- (6) Plaintiff/Consolidated-Defendant MonaVie's Motion to Compel Production of Documents (Docket No. 140), filed October 30, 2008;
- (7) Defendant/Consolidated-Plaintiff Quixtar's Motion For An Order to Show Cause (Docket No. 152), filed November 5, 2008;
- (8) Plaintiff/Consolidated-Defendant MonaVie's Supplemental Motion to Compel Production of Documents (Docket No. 177), filed November 21, 2008;

in the above-captioned consolidated action.

The Court having considered the written and oral arguments of the parties, and for good cause shown, it is hereby ORDERED that

(1) Defendant/Consolidated-Plaintiff Quixtar's Motion To Compel Discovery From Consolidated-Defendants Mona Vie, Inc. and MonaVie LLC is GRANTED IN PART and DENIED IN PART. MonaVie shall answer Quixtar's Interrogatory No. 3 by furnishing a bottle of its beverage. MonaVie shall answer Quixtar's Interrogatory No. 5 by identifying who bottles MonaVie's product. MonaVie answered Interrogatory No. 8 on the record during the hearing. MonaVie shall respond to Quixtar's Document Request Nos. 3-6 by exchanging its "Personal Enrollment Tree" and "Binary Tree" with Quixtar's "Line of Sponsorship" by January 5, 2009 for each of the 20 distributors identified in ¶¶ 95-114 of Amway's Second Supplemental and Amended Complaint (Doc. No. 166) and for Amway's production of the same Line of Sponsorship information for the same individuals while distributors for Amway. MonaVie's and Amway's exchange shall include the structure and the name, address, and distributor number for each distributor. The production will be in a usable database form such as EXCEL or ACCESS. Amway and MonaVie shall appear on January 6, 2009, at 1:30 PM to certify to the Court that they have exchanged this information.

(2) Defendant/Consolidated-Plaintiff Quixtar's Motion To Compel Discovery From Consolidated-Defendants Brig and Lita Hart, Jason Lyons, and Carrie Palmieri is GRANTED IN PART and DENIED IN PART. Brig and Lita Hart shall answer Quixtar's Interrogatory No. 9 and Quixtar's Doc. Request No. 11 by providing any 1099 forms from MonaVie beginning from 2005.

(3) Defendant/Consolidated-Plaintiff Quixtar's Motion To Compel Discovery From Consolidated-Defendants Lou Niles and Farid Zarif is GRANTED IN PART and DENIED IN PART. Lou Niles and Farid Zarif shall answer Quixtar's Interrogatory No. 9 and Quixtar's Doc. Request No. 11 by providing any 1099 forms from MonaVie beginning from 2005.

(4) Defendant/Consolidated-Plaintiff Quixtar's [Supplemental] Motion To Compel Discovery From Consolidated-Defendants Brig and Lita Hart is GRANTED IN PART and DENIED IN PART. Brig and Lita Hart shall cooperate with Amway in obtaining their email from America Online ("AOL"). From any such emails, Brig and Lita Hart shall produce any responsive emails relating to Amway's false advertising claims for the period November 2004 through 2008.

~~(5) Defendant/Consolidated-Plaintiff Quixtar's [Supplemental] Motion To Compel Discovery From Consolidated-Defendants MonaVie, Inc. and MonaVie LLC is GRANTED IN PART and DENIED IN PART. MonaVie shall answer Quixtar's Interrogatory No. 7 and 8 by identifying documents pursuant to Rule 33(d). MonaVie shall respond to Quixtar's Document Request No. 58 by producing any letters to MonaVie from the Attorney General, Better Business Bureau, Food and Drug Administration, and Federal Trade Commission to the extent not already produced.~~

(6) Plaintiff/Consolidated-Defendant MonaVie's Motion to Compel Production of Documents is DENIED. However, by December 29, 2008, Amway shall file with the Court, under seal, copies of the deposition proceedings of Orrin Woodward and Chris Brady, including all exhibits thereto, taken in their respective arbitrations with Amway and/or filed in the matter of Quixtar v. TEAM, U.S. District Court, District of Nevada, Case No. 3:07-CV-00505. Amway

shall further provide copies of the same to each of the Consolidated-Defendants' counsel of record in this case.

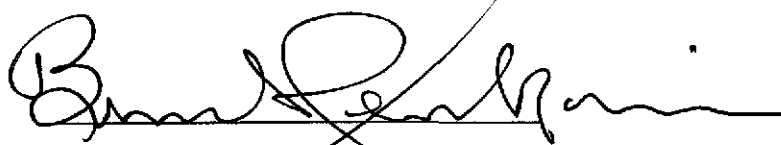
(7) Defendant/Consolidated-Plaintiff Quixtar's Motion For An Order to Show Cause is moot based on MonaVie's stipulation that it will provide unredacted copies of its production. MonaVie shall provide such unredacted copies by December 31, 2008. ~~The unredacted documents will have the same production numbers as the redacted documents.~~

(8) Plaintiff/Consolidated-Defendant MonaVie's Supplemental Motion to Compel Production of Documents is GRANTED IN PART and DENIED IN PART. Amway shall respond to MonaVie's Interrogatory No. 12 and Document Request No. 14 by producing all letters from the Federal Trade Commission, Food and Drug Administration, or any other state or federal agency with reference to Amway juices since 2003. Amway shall respond to MonaVie's Request for Admission No. 2. MonaVie's request that Amway respond to MonaVie's Request for Admission No. 1 is denied.

(9) The individual defendants need not file an Answer or other response to Amway's Second Supplemental and Amended Complaint.

DATED this 27th day of December, 2008.

BY THE COURT:



Hon. Bruce S. Jenkins
United States District Court Judge

Dated this 30th day of December, 2008.

Approved as to Form:
Dated this 30th day of December, 2008.

/s/ Ryan L. Marshall

Ryan L. Marshall (Bar No. 9529)
BRINKS HOFER GILSON & LIONE
405 South Main Street, Suite 800
Salt Lake City, Utah 84111-3400
(801) 355-7900

One of the Attorneys for
Defendant/Consolidated-Plaintiff Quixtar Inc.

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Salt Lake City, Utah 84180
(801) 532-7080

One of the Attorneys for Plaintiff/
Consolidated-Defendants MonaVie, LLC and
Mona Vie, Inc.

Mark F. James (5295)
Hatch, James & Dodge, P.C.
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Salt Lake City, Utah 84101
(801) 363-6363

One of the Attorneys for Consolidated-
Defendants John Brigham Hart, Lita Hart,
Jason Lyons, and Carrie Palmieri

J. Simón Contreras (10208)
Holland & Hart LLP
60 E. South Temple, Suite 2000
Salt Lake City, Utah 84111
(801) 799-5800

One of the Attorneys for Consolidated-
Defendants Lou Niles and Farid Zarif

Karen L. Martinez (7914)
Thomas M. Melton (4999)
Attorneys for Plaintiff
Securities & Exchange Commission
15 West South Temple, Suite 1800
Salt Lake City, Utah 84101
Tel. 801-524-5796

FILED
U.S. DISTRICT COURT

2009 JAN -8 A 9:05

DISTRICT CLERK

BY: _____
DISTRICT CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE COMMISSION,

PLAINTIFF,

v.

MADISON REAL ESTATE GROUP, LLC, a Wyoming
limited liability company, RICHARD AMES HIGGINS,
BRANDON S. HIGGINS, and ALLAN D.
CHRISTENSEN,

DEFENDANTS.

v.

Mantle Finance, LLC and Matt Sefcik,

INTERVENOR.

**AGREED SCHEDULING
ORDER PROPOSED BY
MANTLE FINANCE LLC,
MATT SEFCIK, AND SEC**

Civil No. 2:08-CV-00243

Judge Clark Waddoups


Pursuant to the Court's Order, dated December 23, 2008, Intervenor, Mantle Finance, LLC and Matt Sefcik (collectively "Mantle") and the SEC submit this Agreed Scheduling Order as follows:

The deadline for completing discovery regarding: (1) whether commingled funds from Madison Real Estate Group were used to purchase the Aspen Village property; and

(2) concurrently, whether Aspen Village should be excluded from the Receivership, is September 30, 2009.

Dispositive motions, including any motions to lift the stay in place in this matter, shall be filed forty-five (45) days thereafter, responses to any dispositive motions shall be filed thirty (30) days thereafter, and replies to any responses shall be filed fifteen (15) days thereafter.

DATED this 7th day of January, 2009.


Hon. Clark Waddoups
United States District Judge
District of Utah

AGREED:

/s/ Fernando M. Bustos
Fernando Bustos

McCleskey, Harriger, Brazill and Graf, LLP
P.O. Box 6170
Lubbock, TX 79493
Telephone: 806-796-7379
Facsimile: 806-796-7365
*Attorney for Intervenor
Mantle Financing, LLC and Matt Sefcik*


/s/ Thomas M. Melton
Thomas M. Melton
Karen Martinez
Attorneys for Plaintiff

FILED
U.S. DISTRICT COURT
2009 JAN -8 P 2:52

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

ORDER


Bruce S. Jenkins
United States Senior District Judge

FILED
U.S. DISTRICT COURT

2009 JAN -9 A 9:14

DISTRICT OF UTAH

BY: DEPUTY CLERK

J. Ryan Mitchell (9362)
Daniel K. Brough (10283)
BENNETT TUELLER JOHNSON & DEERE
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Salt Lake City, Utah 84121
Telephone: (801) 438-2000
Facsimile: (801) 438-2050

Paul H. Schwartz (admitted *pro hac vice*)
Jeffrey A. Smith (admitted *pro hac vice*)
COOLEY GODWARD KRONISH LLP
380 Interlocken Crescent, Suite 900
Broomfield, Colorado 80021
Telephone: (720) 566-4000
Facsimile: (720) 566-4099

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT DISTRICT OF UTAH

WRIGHT THURSTON and TREVOR
KEYES,

Plaintiffs,

vs.

PINNACLE SECURITY, LLC, a Utah
limited liability company; CHAD
CHRISTOFFERSON, CHRIS MUNDAY,
JOHN BARLOW, STEVE ZOLMAN,
KELLY WALKER, and JARED
CHAPPELL,

Defendants.

)
) **ORDER ENLARGING**
) **DEFENDANTS' TIME TO**
) **ANSWER PLAINTIFFS'**
) **AMENDED COMPLAINT**
)
)
)

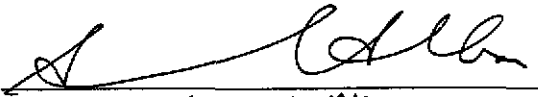
) Case No. 2:08-cv-403

) Judge: Dee Benson

) Magistrate Judge: Samuel Alba
)
)
)

Based on the Stipulation of the parties and good cause appearing therefore, it is hereby ORDERED that Defendants' time to file an Answer to Plaintiffs' Amended Complaint is hereby extended through January 22, 2009.

DATED this 8th day of January, 2009.


~~Dee Benson~~ Samuel Alba
~~District Court Judge~~
Magistrate

APPROVED AS TO FORM:

SUMSION & CRANDALL

/s/ Grant M. Sumsion
Grant M. Sumsion
Attorneys for Plaintiffs
(Signed by J. Ryan Mitchell with
Permission of Grant M. Sumsion)

FILED
U.S. DISTRICT COURT

2009 JAN -8 P 3: 12

DISTRICT OF UTAH

BY:
DEPUTY CLERK

DAVID N. WOLF (6688)
Assistant Utah Attorney General
MARK L. SHURTLEFF (4666)
Utah Attorney General
Attorneys for Defendants
160 East 300 South, Sixth Floor
P.O. Box 140856
Salt Lake City, Utah 84114-0856
Telephone: (801) 366-0100
Facsimile: (801) 366-0150
e-mail: dnwolf@utah.gov

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF
UTAH

CENTRAL DIVISION

ROGER SCOTT BRYNER,

Plaintiff,

v.

STATE OF UTAH, et al.,

Defendants.

ORDER OF DISMISSAL

Case No. 2:08CV00463

Judge Thomas J. Greene

On January 5, 2009, a hearing was held to discuss the status of this case. Plaintiff, Roger Scott Bryner, appeared pro se. Melanie Mitchell appeared on behalf of defendants Salt Lake County and Deputy Michael Rawley. David Wolf represented the State of Utah ("State").

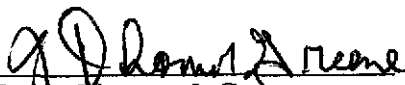
On November 6, 2008, the State filed a motion to dismiss and a supporting memorandum. The basis of the State's motion to dismiss is that the Eleventh Amendment to the United States Constitution bars Plaintiff's claims against the State.

Plaintiff has not filed any opposition or other response to the State's motion to dismiss and the time for Plaintiff to file a response has expired. In addition, during the January 5, 2009 hearing, Plaintiff conceded that the Eleventh Amendment barred his claims and Plaintiff affirmatively represented that he did not have any objection to the State being dismissed as a defendant in this action.

Accordingly, based on the unopposed motion, the case law and legal citation contained in the State's memorandum in support of its motion to dismiss, and Plaintiff's concession that the State should be dismissed from this case, IT IS HEREBY ORDERED that Plaintiff's claims against the State of Utah are dismissed, with prejudice.

DATED this 5th day of January, 2009.

BY THE COURT:


Judge Thomas J. Greene
District Court Judge

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH 2009 JAN -8 P 2:31

CENTRAL DIVISION

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

FRANK PARKER,

Plaintiff,

vs.

NICOLE NEILSON, TARYN PRAZEN,
BARBARA SINGER, LDS CHURCH OF
KEARNS, UTAH DIVISION OF CHILD
AND FAMILY SERVICES, and THE
CHURCH OF JESUS CHRIST OF LATTER-
DAY SAINTS,

Defendants.

ORDER ADOPTING REPORT AND
RECOMMENDATION

Case No. 2:08 CV 468 TC

The court referred this case to Chief Magistrate Judge Samuel Alba pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B). On December 8, 2008, Judge Alba, in a very thorough Report and Recommendation, recommended dismissal of Plaintiff's Complaint as to the only remaining defendant, Barbara Singer.

The parties were given ten days to file objections to the Report and Recommendation and were cautioned that failure to file an objection could constitute waiver thereof upon subsequent review. No objections were filed.

The court, after de novo review of the Report and Recommendation, agrees that Judge

Alba's conclusions are correct in all respects, and hereby adopts the Report and Recommendation as the order of the court. Plaintiff's Complaint against Defendant Barbara Singer is dismissed. Because Defendant Singer is the only remaining defendant in this case, dismissal of the Complaint as to her results in the full dismissal of Plaintiff's Complaint.

The court also adopts the recommendation that any pendent state law claims that might remain be dismissed.

DATED this 8th day of January, 2009.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
Chief Judge

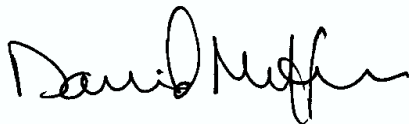
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

UNITED STATES of AMERICA Plaintiff, vs. DONALD GILBERT Defendant.	ORDER TO SHOW CAUSE Case No. 2:08-CV-632
---	---

Plaintiff is hereby ordered to show cause why the above captioned case should not be dismissed as service of process has not been completed within 120 days as required by Rule 4(m) of F.R.C.P. The file indicated no activity since 8/25/08.

Plaintiff is directed to respond in writing within 20 days from the date of this order and inform the Court of the status of the case and intentions to proceed. Failure to do so will result in dismissal of the case.

Dated this 9th Day of January, 2009



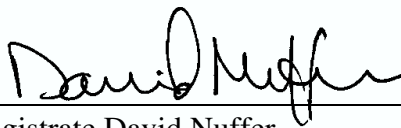
By _____
David Nuffer
United States Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

LARRY J. MCCAULEY,)	
	)	Case No. 2:08CV 00722 DN
Plaintiff,)	
)	
v.)	
	)	ORDER
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
	)	Magistrate David Nuffer
Defendant.)	

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of Jennifer Randall in the United States District Court, District of Utah in the subject case is GRANTED.

DATED this ____ day of January, 2009.


Magistrate David Nuffer
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH ____CENTRAL____ DIVISION

UNITED STATES,

Plaintiff,

vs.

ROBERT J. PICKETT; CECILIA G.
PICKETT; FIRST FRANKLIN LOAN
SERVICES, A DIVISION OF
NATIONAL CITY BANK

Defendant.

**SCHEDULING ORDER AND
ORDER VACATING HEARING**

Case No. 2:08-cv-00724-DAK

District Judge Dale A. Kimball

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket # 13). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for February 4, 2009 at 11:00 a.m. is VACATED.

****ALL TIMES 4:30 PM UNLESS INDICATED****

1. PRELIMINARY MATTERS

DATE

Nature of claim(s) and any affirmative defenses:

- | | | |
|----|--|-----------------|
| a. | Was Rule 26(f)(1) Conference held? | <u>01/02/09</u> |
| b. | Has Attorney Planning Meeting Form been submitted? | <u>01/06/09</u> |
| c. | Was 26(a)(1) initial disclosure completed? | <u>02/06/09</u> |

2. DISCOVERY LIMITATIONS

NUMBER

- | | | |
|----|--|-----------|
| a. | Maximum Number of Depositions by Plaintiff(s) | <u>10</u> |
| b. | Maximum Number of Depositions by Defendant(s) | <u>10</u> |
| c. | Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |

d.	Maximum Interrogatories by any Party to any Party	<u>50</u>
e.	Maximum requests for admissions by any Party to any Party	<u>50</u>
f.	Maximum requests for production by any Party to any Party	<u>50</u>
		<u>DATE</u>
3.	AMENDMENT OF PLEADINGS/ADDING PARTIES²	
a.	Last Day to File Motion to Amend Pleadings	<u>02/20/09</u>
b.	Last Day to File Motion to Add Parties	<u>02/20/09</u>
4.	RULE 26(a)(2) REPORTS FROM EXPERTS³	
a.	Plaintiff	<u>n/a</u>
b.	Defendant	<u>n/a</u>
c.	Counter reports	<u>n/a</u>
5.	OTHER DEADLINES	
a.	Discovery to be completed by:	
	Fact discovery	<u>07/22/09</u>
	Expert discovery	<u>n/a</u>
b.	(optional) Final date for supplementation of disclosures and discovery under Rule 26 (e)	<u>00/00/00</u>
c.	Deadline for filing dispositive or potentially dispositive motions	<u>08/21/09</u>
6.	SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION	
a.	Referral to Court-Annexed Mediation	<u>No</u>
b.	Referral to Court-Annexed Arbitration	<u>No</u>
c.	Evaluate case for Settlement/ADR on	<u>08/21/09</u>
d.	Settlement probability:	<u>Fair</u>
7.	TRIAL AND PREPARATION FOR TRIAL:	
a.	Rule 26(a)(3) Pretrial Disclosures ⁴	

Plaintiff 11/20/09

Defendant 12/04/09

- b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)

DATE

c. Special Attorney Conference⁵ on or before 12/18/09

d. Settlement Conference⁶ on or before 12/18/09

e. Final Pretrial Conference 2:30 p.m. 01/12/10

f. Trial Length Time Date

i. Bench Trial # days


ii. Jury Trial 4 days 8:30 a.m. 01/26/10

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 8th day of January, 2009.

BY THE COURT:


David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).

2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

S:\IPT\2009\USA v. Pickett 208cv724DAK 0107 tb.wpd

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email: amm@scmlaw.com

RICHARD J. GILLOON (*pro hac vice*)
ERICKSON & SEDERSTROM, P.C.
10330 Regency Parkway Dr., Ste. 100
Omaha, Nebraska 68114-3761
Telephone: (402) 397-2200
Facsimile: (402) 390-7137
email: rgill@eslaw.com

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNICITY INTERNATIONAL, INC., a
Delaware Corporation,

Plaintiff,

vs.

BIRDDOG SOLUTIONS, INC., a Nevada
Corporation and Does 1-10,

Defendant.

**SCHEDULING ORDER AND ORDER
VACATING HEARING**

Case No. 2:08-CV-768 DB

Judge Dee Benson

Pursuant to Fed. R. Civ. P. 16(b), the Magistrate Judge received the Attorney's

Planning Report filed by counsel (docket #11). The following matters are scheduled. The times deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for 2/04/2009 @ 10:30 a.m. is VACATED.

An attorneys' planning conference was held on December 17, 2008, and all parties were represented by counsel. Having reviewed the Attorneys' Planning Meeting Report, the Court makes the following Scheduling Order:

Inc.

1. The parties will exchange initial disclosures required by Rule 26(a)(1) on January 16, 2009.

2. An initial pretrial scheduling conference is set before Magistrate Judge David Nuffer on February 4, 2009, at 10:30 a.m., but parties are requesting it be canceled.

3. The following discovery methods shall be used:

(a) Oral Exam Depositions:

Plaintiff	<u>10</u>
Defendant	<u>10</u>
Maximum number of hours per deposition	<u>7</u>

Interrogatories	<u>25</u>
Admissions	<u>25</u>
Document Requests	<u>200</u>

(c) Electronically stored information should be provided in digital or PDF format, or hard copy.

(d) The parties shall have 30 days after production of information to assert privilege as supported by a privilege log.

4. The cutoff dates for filing a motion to amend pleadings shall be:

Plaintiff: February 16, 2009
Defendant: February 16, 2009

The cutoff dates for filing a motion to join additional parties shall be:

Plaintiff: February 16, 2009
Defendant: February 16, 2009

5. Reports from experts under Rule 26(a)(2) will be submitted on:

Plaintiff's and Counter Claimant's Expert Reports: April 24, 2009
Defendant's and Counterclaim Defendant's
Expert Reports: May 29, 2009
Rebuttal Reports: June 12, 2009

6. Discovery cutoff: Fact: April 17, 2009 Expert: July 17, 2009

7. Final date for supplementation of disclosures under Rule 26(a)(3) and of discovery under Rule 26(e): 16 days prior to trial.

8. Deadline for filing dispositive or potentially dispositive motions and Daubert motions is: July 31, 2009.

9. The potential for resolution before trial is fair. This case should not be referred to the court's alternative dispute resolution program. The case should be re-evaluated for settlement/ADR resolution on: January 30, 2009

10. TRIAL AND PREPARATION FOR TRIAL:

a. Rule 26(a)(3) Pretrial Disclosures

Plaintiff	10/30/09
Defendant	11/13/09

- | | | |
|----|--|--------------------|
| b. | Special Attorney Conference on or before | 11/27/09 |
| c. | Settlement Conference on or before | 11/27/09 |
| d. | Final Pretrial Conference | 3:00 p.m. 12/15/09 |
| e. | Jury Trial Five days | 8:30 a.m. 01/04/10 |

DATED this 8th day of January, 2009.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

Approved as to form:

SMITH, CHAPMAN & CAMPBELL

STEVEN C. SMITH Date
Attorneys for Plaintiff

SNOW, CHRISTENSEN & MARTINEAU

s/ ANDREW M. MORSE 1-5-09
ANDREW M. MORSE Date

ERICKSON & SEDERSTROM, P.C.

RICHARD J. GILLOON (*pro hac vice*) Date

Attorneys for Defendant

United States District Court

For The District of Utah, Central Division

United States of America,

Plaintiff,

vs.

29,122.5 Square Feet of Land in Salt
Lake City, Salt Lake County, State of
Utah; Shubrick Building, L.L.C., Brighton
Bank; Anchor Investments Company,
Port O' Call, Inc.; et al.; and any
Unknown Other Owners.
Defendants.

Case No. 08-CV-895-WFD

ORDER DENYING DEFENDANTS' MOTION TO STRIKE

This matter comes before the Court on a motion by Defendants Shubrick Building, L.L.C., Anchor Investments Company, and Port O' Call, Inc. to strike portions of the Affidavit of Alan J. Camp submitted by the United States in support of its Motion for Immediate Delivery of Possession of Condemned Property. The Court, having considered Defendants' Motion, Plaintiff's response thereto, and the Camp Affidavit itself, FINDS and ORDERS:

I. Introduction

At issue here are various elements of the Affidavit of Alan Camp, who is the

current GSA project manager for the expansion of the Frank E. Moss United States Courthouse in Salt Lake City, Utah. Defendants object to various portions of his affidavit on the grounds that they are either not based on personal knowledge, constitute inadmissible hearsay, or are purely conclusory or speculative in nature.

II. Statements Allegedly Not Based on Personal Knowledge

Defendants assert that two paragraphs in the Camp Affidavit are not based on personal knowledge and should accordingly be stricken. See Fed. R. Evid. 602; see also *Argo v. Blue Cross & Blue Shield of Kansas*, 452 F.3d 1193, 1200 (10th Cir. 1996) (refusing to consider affidavits not based on personal knowledge at the summary judgment phase due to Rule 56's clear contrary requirement). Camp Affidavit Paragraph 6 discusses the historical background behind the decision to expand the Moss courthouse. Camp Affidavit Paragraph 7 discusses various delays in the progress of the expansion, alleging that a portion of the delay resulted from a "change in the project direction in 2003" to include the land on which the Shubrick Building sits. Defendant asserts that both Paragraph 6 and 7 are based on events which occurred prior to the affiant's participation in the project.

However, it is clear from the United States' Memorandum in Opposition, as well as Mr. Camp's testimony in open court on January 7, 2009, that Mr. Camp was involved in the project from an early date. He served as the GSA Project Manager in charge of the Prospectus Development Study for the project as early as

1993, and was also involved in the GSA's Property Development working group before he was finally assigned as the overall project manager three years ago. Consequently, it is clear that Mr. Camp does, in fact, possess personal knowledge regarding the events described in Paragraphs 6 and 7.

III. Statements Allegedly Constituting Hearsay

Defendants allege that Camp Affidavit Paragraph 13, which describes "growing judicial concerns" regarding the inadequacies of the existing courthouse, and asserts that "Utah's federal judiciary and Senators have communicated that they are anxious to avoid further delays" constitutes inadmissible hearsay. Defendants specifically challenge as hearsay the alleged communications by Utah's federal judiciary and Senators. However, it is apparent that these statements are not being offered for their truth and thus are not objectionable. Further, the first portion of Paragraph 13, which recites the reasons for the expansion do not constitute statements made by persons other than the declarant, and as they are clearly based on knowledge developed by the affiant during his tenure on this project, cannot be stricken.

IV. Statements Allegedly Conclusory or Speculative in Nature

Finally, Defendants assert that Camp Affidavits Paragraph 8, 9, 10, 11, 13, and 14 are unsupported speculation or conjecture. These paragraphs deal with the professed urgency of the project; the need to complete pre-construction activities on

schedule to be eligible for construction funds; the number of jobs which the project is expected to generate; the expected timing for receipt of construction funding; and the expected consequences of any delay in pre-construction activities, including projected cost increases.

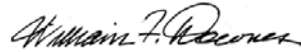
It is apparent, both from the government's memorandum, as well as from Mr. Camp's January 7, 2009 testimony before this Court, however, that the information contained in these paragraphs is actually based either on Mr. Camp's long experience in GSA construction projects, or in nuances specific to this project. Far from unsupported conjecture, it appears that Mr. Camp's affidavit rests on a firm foundation, and should not be stricken.

V. Conclusion

Having reviewed the affidavit in its entirety, the Court finds Defendants objections without merit. It clear that Mr. Camp has a long history with this project, and with GSA construction projects generally. He is well-versed in the vagaries of this project, including the GSA's reasons for initiating it, the pitfalls that could occur if the GSA is not granted immediate possession, etc. Consequently, it appears that far from unsupported conjecture, the statements contained in the affidavit are actually based on personal knowledge. Further those few elements of the affidavit which are asserted to be hearsay are either clearly not admitted for their truth or do not constitute third party statements. For the foregoing reasons, Defendant's Motion to Strike must be, and

hereby is, DENIED in its entirety.

DATED this 9th day of January, 2009.

A handwritten signature in cursive script, appearing to read "William F. Downes".

Honorable William F. Downes
Chief United States District Judge
Sitting by Special Designation

FILED
U.S. DISTRICT COURT

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

2009 JAN -8 A 10:50

OFFICE OF

JUDGE TENA CAMPBELL

NANCY ANDERSON, an individual,

DISTRICT COURT

Plaintiffs,

BY:

ORDER FOR *PRO HAC VICE*

DEPUTY CLERK ADMISSION

v.

NATURAL SELECTION FOODS, LLC, a
California limited liability company; NATURAL
SELECTION FOODS MANUFACTURING, LLC,
a California limited liability company; DOLE FOOD
COMPANY, INC., a Delaware corporation;
HARMONS AT THE BRICKYARD, INC., a Utah
Corporation; MISSION ORGANICS, LLC, a
California limited liability company; and JOHN
DOES 1 through 20,

Defendants.

Case No. 2:08-CV-00922

Judge Tena Campbell

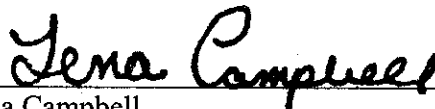
It appearing to the Court that Petitioner meets the *pro hac vice* admission requirements of DUCivR

83-1.1(d), the motion for the admission *pro hac vice* of Alan M. Maxwell in the United States District Court,

District of Utah, in the subject case is GRANTED.

DATED this 7th day of January, 2009.

BY THE COURT:



Tena Campbell
United States District Judge

FILED
JAN 17 2009
OFFICE OF
CLERK

FILED
U.S. DISTRICT COURT
2009 JAN -8 A 10:50

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

NANCY ANDERSON, an individual,

Plaintiffs,

v.

NATURAL SELECTION FOODS, LLC, a
California limited liability company; NATURAL
SELECTION FOODS MANUFACTURING, LLC,
a California limited liability company; DOLE FOOD
COMPANY, INC., a Delaware corporation;
HARMONS AT THE BRICKYARD, INC., a Utah
Corporation; MISSION ORGANICS, LLC, a
California limited liability company; and JOHN
DOES 1 through 20,

Defendants.

*
DISTRICT OF UTAH
BY: * **ORDER FOR PRO HAC VICE**
* **ADMISSION**
*

*
* Case No. 2:08-CV-00922
*

*
* Judge Tena Campbell
*
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*
*
*
*

It appearing to the Court that Petitioner meets the *pro hac vice* admission requirements of DUCivR 83-1.1(d), the motion for the admission *pro hac vice* of **Joshua E. Swiger** in the United States District Court, District of Utah, in the subject case is GRANTED.

DATED this 7th day of January, 2009.

BY THE COURT:

Tena Campbell

Tena Campbell
United States District Judge

FILED
U.S. DISTRICT COURT
2009 JAN -8 A 10:50
OFFICE OF
JUDGE TENA CAMPBELL

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

NANCY ANDERSON, an individual,

Plaintiffs,

v.

NATURAL SELECTION FOODS, LLC, a
California limited liability company; NATURAL
SELECTION FOODS MANUFACTURING, LLC,
a California limited liability company; DOLE FOOD
COMPANY, INC., a Delaware corporation;
HARMONS AT THE BRICKYARD, INC., a Utah
Corporation; MISSION ORGANICS, LLC, a
California limited liability company; and JOHN
DOES 1 through 20,

Defendants.

BY: * **ORDER FOR PRO HAC VICE**
* **ADMISSION**

* Case No. 2:08-CV-00922

* Judge Tena Campbell

It appearing to the Court that Petitioner meets the *pro hac vice* admission requirements of DUCivR 83-1.1(d), the motion for the admission *pro hac vice* of **Sarah L. Brew** in the United States District Court, District of Utah, in the subject case is GRANTED.

DATED this 7th day of January, 2009.

BY THE COURT:

Tena Campbell

Tena Campbell
United States District Judge

FILED
U.S. DISTRICT COURT
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2009 JAN -8 A 10:50
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

NANCY ANDERSON, an individual,

Plaintiffs,

v.

NATURAL SELECTION FOODS, LLC, a
California limited liability company; NATURAL
SELECTION FOODS MANUFACTURING, LLC,
a California limited liability company; DOLE FOOD
COMPANY, INC., a Delaware corporation;
HARMONS AT THE BRICKYARD, INC., a Utah
Corporation; MISSION ORGANICS, LLC, a
California limited liability company; and JOHN
DOES 1 through 20,

Defendants.

BY: _____
DEPUTY CLERK

ORDER FOR *PRO HAC VICE*
ADMISSION

Case No. 2:08-CV-00922

Judge Tena Campbell

It appearing to the Court that Petitioner meets the *pro hac vice* admission requirements of DUCivR 83-1.1(d), the motion for the admission *pro hac vice* of **Kathryn N. Hibbard** in the United States District Court, District of Utah, in the subject case is GRANTED.

DATED this 7th day of January, 2009.

BY THE COURT:

Tena Campbell

Tena Campbell
United States District Judge

LESA LAKE-ALLEN,	:	
	:	
Plaintiff,	:	
	:	ORDER FOR PRO HAC VICE ADMISSION
v.	:	
	:	
JOHNSON & JOHNSON et al.,	:	
	:	
Defendant	:	Case Number 2:08CV930-DAK
	:	
	:	

DATED this 9th day of January, 2009.

Dale A. Kimball
Dale A. Kimball
United States District Judge

LESA LAKE-ALLEN,	:	
	:	
Plaintiff,	:	
	:	ORDER FOR PRO HAC VICE ADMISSION
v.	:	
	:	
JOHNSON & JOHNSON et al.,	:	
	:	
Defendant	:	Case Number 2:08CV930-DAK
	:	
	:	

DATED this 9th day of January, 2009.

Dale A. Kimball
Dale A. Kimball
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH -- CENTRAL DIVISION

1-800 CONTACTS, INC.

Plaintiff,

v.

MEMORIAL EYE, PA d/b/a
SHIPMYCONTACTS.COM,
SHIP-MY-CONTACTS.COM, and
IWANTCONTACTS.COM

Defendant.

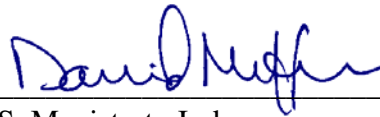
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ORDER FOR PRO HAC VICE ADMISSION

Case No. 2:08-cv-983

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of Kristin L. Murphy in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this 9th day of January, 2009.



U.S. Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH -- CENTRAL DIVISION

1-800 CONTACTS, INC.

Plaintiff,

v.

MEMORIAL EYE, PA d/b/a
SHIPMYCONTACTS.COM,
SHIP-MY-CONTACTS.COM, and
IWANTCONTACTS.COM

Defendant.

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ORDER FOR PRO HAC VICE ADMISSION

Case No. 2:08-cv-983

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of Linda D. Mettes in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this 9th day of January, 2009.



U.S. Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH -- CENTRAL DIVISION

1-800 CONTACTS, INC.

Plaintiff,

v.

LENSFAST, LLC d/b/a
CONTACTLENS.COM,
LENSFAST.COM, and
E-CONTACTS.COM and
RANDOLPH WEIGNER

Defendants.

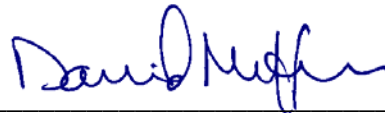
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ORDER FOR PRO HAC VICE ADMISSION

Case No. 2:08-cv-984

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of R. Terrance Rader in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this 9th day of January, 2009.



U.S. Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH -- CENTRAL DIVISION

1-800 CONTACTS, INC.

Plaintiff,

v.

LENSFAST, LLC d/b/a
CONTACTLENS.COM,
LENSFAST.COM, and
E-CONTACTS.COM and
RANDOLPH WEIGNER

Defendants.

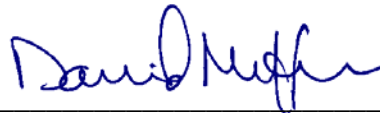
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ORDER FOR PRO HAC VICE ADMISSION

Case No. 2:08-cv-984

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of Linda D. Mettes in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this 9th day of January, 2009.



U.S. Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH -- CENTRAL DIVISION

1-800 CONTACTS, INC.

Plaintiff,

v.

LENSFAST, LLC d/b/a
CONTACTLENS.COM,
LENSFAST.COM, and
E-CONTACTS.COM and
RANDOLPH WEIGNER

Defendants.

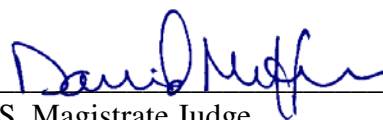
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ORDER FOR PRO HAC VICE ADMISSION

Case No. 2:08-cv-984

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of Kristin L. Murphy in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this 9th day of January, 2009.



U.S. Magistrate Judge